

**Town of Surfside
Town Commission Meeting**

Tuesday, March 10, 2009, 7:00 p.m.

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Fl
Surfside, FL 33154

REVISED AGENDA

1. Opening

- A. Call to Order**
- B. Roll Call of Members**
- C. Pledge of Allegiance**
- D. Agenda and Order of Business**
- E. Special Presentations**

- 1. Introduction of Law Clerk, Adam Bender – Lynn Dannheisser

2. Quasi-Judicial Hearings

3. Consent Agenda

All items on the consent agenda are considered routine by the Town Commission and will be approved by one motion. There will be no separate discussion of these items unless a Commissioner so requests, in which event, the item will be moved to the main agenda under the appropriate heading for consideration.

Recommended Motion: To approve all consent agenda items as presented below.

A. Approval of the Minutes

TAB 1

- 1. February 10, 2009 – Regular Commission Meeting

4. Ordinances and Public Hearings

A. Second Readings (Ordinances)

1. Removal and Proper Disposition of Animal Fecal Matter

(Second Reading) - Lynn Dannheisser **Deferred to April 14 meeting**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES CHAPTER 10, ARTICLE II, DOGS; PROVIDING FOR INCLUSION IN THE CODE BY CREATING SECTIONS 10-37 THROUGH 10-39 TO PROVIDE FOR REGULATIONS ON DOGS IN PUBLIC AND PRIVATE AREAS AND REMOVAL AND PROPER DISPOSITION OF ANIMAL FECAL MATTER REQUIRED WHEN DOG DEFECATES ON PUBLIC AND PRIVATE PROPERTY; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL

ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

- a. Summary: Ordinance proposes to regulate the removal and proper disposition of animal fecal matter.
- b. Report: Town Attorney
- c. Recommended Motion: To adopt this ordinance on second reading after public hearing.

2. McMansion Ordinance

(Second Reading) – Sarah Sinatra

Deferred to April 14 meeting

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING SECTION 90.19.8 REQUIRED FOR SUBMITTAL TO DESIGN REVIEW BOARD; AMENDING 90.41.4 TO DELETE SECTION 1.d. AMENDING SECTION 90.45 RELATIVE TO BUILDING MASSING, LOT COVERAGE, AND SETBACKS IN THE H30A, H30B ZONING DISTRICTS; RENUMBERING SECTIONS 90.45; AMENDING SECTION 90.48 TO CREATE A RESTRICTION ON NEW BALCONIES AND DECKS; AMENDING SECTION 90.50 TO PROVIDE DESIGN STANDARDS APPLICABLE TO ZONING DISTRICTS H30A AND H30B ALL WITH REFERENCE TO CONTROLLING THE SCALE AND MASS OF THE EXPANSION OF SINGLE FAMILY HOMES AS WELL AS NEW AND REDEVELOPED SINGLE FAMILY HOMES; PROVIDING FOR A REVISION TO SECTION 90.61.1 RELATING TO PAVERS AND PERVIOUS SURFACES AND TO CREATE SECTION 90.h. DESCRIBING ALLOWABLE DRIVEWAY MATERIALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

- a. Summary: Ordinance proposes to require DRB review of expansion of single family homes as well as new and redeveloped single family homes.
- b. Report: Town Planner
- c. Recommended Motion: To adopt this ordinance on second reading after public hearing.

3. Temporary Use and Structure Permit

(Second Reading) - Lynn Dannheisser

Deferred to April 14 meeting

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE BY CREATING A NEW SECTION 90-36-1 TO PROVIDE FOR APPLICATION FOR A TEMPORARY USE OR STRUCTURE PERMIT NOT OTHERWISE TREATED AS A PERMITTED USE OR CONDITIONAL USE IN A PARTICULAR ZONING DISTRICT; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

- a. Summary: Ordinance proposes to allow for temporary uses or structures provided the temporary use is compatible with surrounding uses and does not create a parking problem or other nuisance.
- b. Report: Town Attorney
- c. Recommended Motion: To adopt this ordinance on second reading after public hearing.

4. Planning and Zoning Board Residency Requirements for Architects
(Second Reading) - Lynn Dannheisser **Deferred to April 14 meeting**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90-15(b) ELIMINATING RESIDENCY REQUIREMENTS FOR LICENSED ARCHITECTS TO SERVE ON THE PLANNING AND ZONING OR DESIGN REVIEW BOARDS PROVIDED NO RESIDENT LICENSED ARCHITECT CAN BE IDENTIFIED AND IS WILLING TO SERVE AT THE TIME OF THE APPOINTMENT AND FURTHER PROVIDED THE ENTIRE COMMISSION RATIFIES SAID APPOINTMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

- a. Summary: Ordinance proposes to allow non-residents to serve as the architect member on the Planning and Zoning and Design Review Boards when a licensed architect who is also a resident cannot be identified.
- b. Report: Town Attorney
- c. Recommended Motion: To adopt this ordinance on second reading after public hearing.

B. First Readings (Public Hearings on Ordinances)

1. Institute Pre-Tax Employee Pension Contributions **TAB 2**
(First Reading) – Lynn Dannheisser

AN ORDINANCE AMENDING THE CODE OF THE TOWN OF SURFSIDE; CREATING SECTION 2-180(d) OF THE CODE TO INSTITUTE PRE-TAX EMPLOYEE "PICK-UP" CONTRIBUTIONS AS PERMITTED BY SECTION 414(h)2 OF THE INTERNAL REVENUE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

- a. Summary: Ordinance proposes to allow pre-tax contributions for Town employees contributing to the pension fund.
- b. Report: Town Attorney
- c. Recommended Motion: To adopt this ordinance on first reading after public hearing.

2. Rules of Procedure for Town Meetings **TAB 3**
(First Reading) – Lynn Dannheisser

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 6.05 OF ARTICLE VI. "RULES OF PROCEDURE FOR TOWN MEETINGS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

- a. Summary: Ordinance proposes to amend Section 6.05 of Article VI. "Rule of Procedure for Town Meetings", specifically scheduling the Good and Welfare portion of the agenda at a time certain period.
- b. Report: Town Attorney
- c. Recommended Motion: To adopt this ordinance on first reading after public hearing.

3. Solid Waste Fee Reduction – Commercial Establishments TAB 4
(First Reading) – Lynn Dannheisser

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 66-35, "SCHEDULE OF FEES" OF THE CODE OF ORDINANCES TO ESTABLISH NEW RATES FOR SOLID WASTE REMOVAL TO DOWNTOWN COMMERCIAL ESTABLISHMENTS WITH A 10% FEE REDUCTION WHICH SHALL BE EFFECTIVE OCTOBER 1, 2009; PROVIDING FOR INCLUSION IN THE CODE BY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

- a. Summary: Ordinance proposes to establish new rates for solid waste removal for downtown commercial establishments with a 10% fee reduction.
- b. Report: Town Attorney
- c. Recommended Motion: To adopt this ordinance on first reading after public hearing.

4. Legal Defense of Public Officers, Employees and Agents Ordinance TAB 5
(First Reading) - Lynn Dannheisser

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 2 "ADMINISTRATION" OF THE TOWN CODE OF ORDINANCES TO CREATE AND ADOPT SECTION 2-27 "LEGAL DEFENSE OF PUBLIC OFFICERS, EMPLOYEES AND AGENTS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

- a. Summary: Ordinance proposes to provide legal defense of public officers, employees and agents including payment of reasonable attorney's fees and costs.

- b. Report: Town Attorney
- c. Recommended Motion: To adopt this ordinance on first reading after public hearing.

5. Fences, Walls and Hedges Ordinance
(First Reading) - Sarah Sinatra

TAB 6

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING"; ARTICLE V "DESIGN STANDARDS"; SECTION 90-56 "FENCES, WALLS AND HEDGES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

- a. Summary: Ordinance proposes to limit the height and opacity of fences and walls in front and corner yards.
- b. Report: Town Planner
- c. Recommended Motion: To adopt this ordinance on first reading after public hearing.

6. Maintenance of Vacant Lots Ordinance
(First Reading) - Lynn Dannheisser

TAB 7

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE III "PROPERTY MAINTENANCE STANDARDS" OF CHAPTER 14 "BUILDING AND BUILDING REGULATIONS" TO ESTABLISH SECTION 14-55 "MAINTENANCE OF VACANT LOTS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

- a. Summary: Ordinance proposes to obligate property owners to secure and maintain their property in good condition and specifically comply with our "Fences, Walls and Hedges" ordinance.
- b. Report: Town Attorney
- c. Recommended Motion: To adopt this ordinance on first reading after public hearing.

5. Resolutions

A. Resolution to Increase Mortgage Holders Responsibility – Foreclosures
(First Reading) – Lynn Dannheisser

TAB 8

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA SUPPORTING AMENDMENTS TO THE FLORIDA STATUTES TO INCREASE MORTGAGE HOLDERS' RESPONSIBILITY FOR DELINQUENT CONDOMINIUM, COOPERATIVE AND HOMEOWNER ASSOCIATIONS FEES, REGULAR ASSESSMENTS AND SPECIAL ASSESSMENTS ON UNITS IN

FORECLOSURE AND ON FORECLOSED UNITS; AND PROVIDING FOR AN EFFECTIVE DATE.

1. Summary: The resolution proposes to increase the mortgage holder's responsibility for delinquent fees and assessments in foreclosures and foreclosed properties.
2. Report: Town Attorney
3. Recommended Motion: To adopt this resolution on first reading after public hearing.

B. Resolution Authorizing the Purchase of Office Furniture for Town Attorney Office

TAB 9

(First Reading) – Lynn Dannheisser

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING THE PURCHASE OF OFFICE FURNITURE AND EXECUTE A LEASE OF A COLOR COPIER/PRINTER/FAX FOR THE OFFICE OF THE TOWN ATTORNEY; AUTHORIZING THE TOWN MANAGER TO EXECUTE ALL PURCHASE ORDERS OR OTHER REQUIRED DOCUMENTATION; AUTHORIZING THE REAPPROPRIATION OF FUND BALANCE (RESERVES) TO THE GENERAL FUND; AMENDING THE TOWN'S BUDGET FOR FISCAL YEAR 2008-2009; AND PROVIDING FOR AN EFFECTIVE DATE.

1. Summary: The resolution proposes to authorize the purchase of office furniture and equipment for the Town Attorney office; further, to authorize the reappropriation of fund balance (reserves) to the general fund.
2. Report: Town Attorney
3. Recommended Motion: To adopt this resolution on first reading after public hearing.

6. Good and Welfare

Public comments for subjects or items not on the agenda. Public comment on agenda items will be allowed when agenda item is discussed by the Commission.

7. Town Manager and Town Attorney Reports

- A. Report on Fire Opt-Out Litigation – Lynn Dannheisser
- B. Necessary Communication Equipment for Commissioners – Lynn Dannheisser

8. Unfinished Business and New Business

- A. Progress Report of Town of Surfside Projects – CGA **TAB 10**
- B. Speed Table Installation: Abbott and Byron Avenues – Fernando Rodriguez **TAB 11**

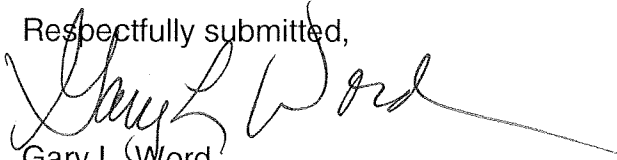
9. Mayor, Commission and Staff Communications

- A. Boat Storage – Commissioners Weinberg and Imberman, Mayor Burkett
- B. Admittance to Public Playground and Parks – Mayor Burkett
- C. "Vita Course" Beach Fitness Stations – Commissioner Levine
- D. Community Garden - Commissioner Weinberg

- E. Gazette - Commissioner Calderon
- F. Commission Expense Allowances – Mayor Burkett
- G. Indian Creek Legal Fees – Mayor Burkett

10. Adjournment

Respectfully submitted,



Gary L. Word,
Town Manager

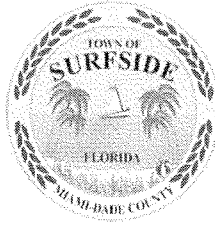
THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-893-6511 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING. HEARING IMPAIRED PERSONS MAY CONTACT THE TDD LINE AT 305-893-7936.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF SURFSIDE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE TOWN CLERK, TOWN OF SURFSIDE TOWN HALL, 9293 HARDING AVENUE. ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM SHOULD CONTACT THE TOWN CLERK AT 305-861-4863. A COMPLETE AGENDA PACKET IS ALSO AVAILABLE ON THE TOWN WEBSITE AT www.townofsurfsidefl.gov

TWO OR MORE MEMBERS OF OTHER TOWN BOARDS MAY ATTEND THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154, WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH COMMUNICATION.



Town Commission Meeting
Tuesday, February 10, 2009, 7:00 p.m.
 Town Hall, 9293 Harding Avenue, 2nd Floor
 Surfside, FL 33154

MINUTES

1. Opening

The Town of Surfside Commission met Tuesday, February 10, 2009 at 7:00 p.m., in Regular Session in the Commission Chambers at Town Hall at 9293 Harding Avenue in Surfside.

a. Call to Order

Mayor Burkett called the meeting to order at 7:09 p.m.

b. Roll Call of Members

In addition to the Mayor, the following Commissioners were present at roll call: Vice Mayor Marc Imberman, Commissioners Elizabeth Calderon, Steven Levine, and Howard Weinberg. Staff members present were: Town Manager Gary Word, Town Attorney Lynn Dannheisser, Police Chief Dave Allen, and Town Clerk Beatris Arguelles.

c. Pledge of Allegiance

Chief Allen led the pledge.

d. Agenda and Order of Business

Mayor Burkett asked to add item 9(d) "Update on Fire Services Opt-out". There were no objections.

e. Special Presentations

1. Officer of the Month and Officer of Year

Chief Allen announced John Gentile as Officer of the Month for January and Officer Giranny Fernandez as Officer of the Year for 2008.

2. Red Light Camera Enforcement – American Traffic Solutions

Following a report regarding the Red Light Camera System, the Commission directed staff to proceed with the implementation of the system.

3. Architect Update on Revised Community Center Plans (*Larry Klein*)
Larry Klein, Architect for Spillis Candela made a presentation to the Commission. Thereafter the Commission made a motion.

MOTION:

Commissioner Levine moved to move forward with a hard bid for the Two Story Option, as presented. Vice Mayor Imberman seconded the motion. On a roll call vote, the motion carried 4-1 with Mayor Burkett dissenting.

2. Quasi-Judicial Hearings (*None*)

3. **Consent Agenda** (*all items on the consent agenda are considered routine by the Town Commission and are approved by one motion. There was no separate discussion of these items unless a Commissioner so requested, in which event, the item was moved to the main agenda under the appropriate heading for consideration*)

MOITION:

Upon a motion by Vice Mayor Imberman, seconded by Commissioner Levine, all items on the consent agenda were approved by unanimous consent as presented below:

- a. Approval of the Minutes
 1. January 13, 2009 – Regular Commission Meeting (including Continuation)
 2. January 15, 2009 – Special Commission Meeting
- b. Resolution: Forfeiture Fund Purchase – SWAT Tactical Body Armor Vest

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, PROVIDING FOR THE FISCAL YEAR 2008/2009 POLICE CONFISCATION FUND EXPENDITURE IN THE AMOUNT OF TWENTY-TWO HUNDRED DOLLARS (\$2,200) TO BE FUNDED BY PROCEEDS OF CONFISCATED FUNDS.

- c. Resolution: Florida League of Cities

A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA RECOGNIZING THE "BUILDING CITIZENSHIP IN THE COMMUNITY: BACK TO BASICS" INITIATIVE OF THE FLORIDA LEAGUE OF CITIES, INC., AND PLEDGING SUPPORT FOR THIS STATEWIDE EFFORT.

4. Ordinances and Public Hearings

- a. Construction Worker Vehicle Parking Ordinance – Second Reading (*Dannheisser*)

The Town Clerk read the Ordinance by title as follows:

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 74 "TRAFFIC AND VEHICLES" BY ADDING AN ADDITIONAL PROVISION TO SECTION 74-26 TO GENERALLY PROHIBIT THE GENERAL PARKING OF CONSTRUCTION WORKER VEHICLES IN PUBLIC LOTS WHILE WORKING ON PROJECTS INVOLVING CONSTRUCTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

MOTION:

Commissioner Levine moved to adopt at this second and final reading after public hearing. Vice Mayor Imberman seconded the motion.

The Mayor opened the public hearing. There being no speakers in favor of or opposed to the Ordinance, the Mayor closed the public hearing.

On a roll call vote, the Ordinance was approved by a unanimous vote.

- b. Removal and Proper Disposition of Animal Fecal Matter – First Reading (*Dannheisser*)

The Town Clerk read the Ordinance by title as follows:

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES CHAPTER 10, ARTICLE II, DOGS; PROVIDING FOR INCLUSION IN THE CODE BY CREATING SECTIONS 10-37 THROUGH 10-39 TO PROVIDE FOR REGULATIONS ON DOGS IN PUBLIC AND PRIVATE AREAS AND REMOVAL AND PROPER DISPOSITION OF ANIMAL FECAL MATTER REQUIRED WHEN DOG DEFECATES ON PUBLIC AND PRIVATE PROPERTY; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION:

Vice Mayor Imberman moved to introduce this Ordinance for First Reading. Commissioner Levine seconded the motion. On a roll call vote, the motion carried unanimously.

- c. Proposed McMansion Ordinance – First Reading (*Sinatra*)

The Town Clerk read the Ordinance by title as follows:

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING SECTION 90.19.8 REQUIRED FOR SUBMITTAL TO

DESIGN REVIEW BOARD, SECTION 90.2 "DEFINITIONS" TO INCLUDE FLOOR AREA RATIO; AMENDING SECTION 90.45 (A) RELATIVE TO BUILDING MASSING, LOT COVERAGE, AND SETBACKS IN THE H30A, H30B ZONING DISTRICTS; RENUMBERING SECTIONS 90.45; AMENDING SECTION 90.48 TO PROVIDE A RESTRICTION ON NEW BALCONIES AND DECKS; AMENDING SECTION 90.50 PROVIDING DESIGN STANDARDS APPLICABLE TO ZONING DISTRICTS H30A AND H30B ALL WITH REFERENCE TO CONTROLLING THE SCALE AND MASS OF THE EXPANSION OF SINGLE FAMILY HOMES AS WELL AS NEW AND REDEVELOPED SINGLE FAMILY HOMES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION:

Vice Mayor Imberman moved to introduce this Ordinance for first reading. Commissioner Levine seconded the motion. On a roll call vote, the motion carried unanimously.

d. Temporary Use and Structure Permit – First Reading (*Dannheisser*)

The Town Attorney disseminated a revised Ordinance for first reading. The Town Clerk read the Ordinance by title as follows:

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE BY CREATING A NEW SECTION 90-36-1 TO PROVIDE FOR APPLICATION FOR A TEMPORARY USE OR STRUCTURE PERMIT NOT OTHERWISE TREATED AS A PERMITTED USE OR CONDITIONAL USE IN A PARTICULAR ZONING DISTRICT; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION:

Commissioner Levine moved to introduce this Ordinance for First Reading. Vice Mayor Imberman seconded the motion. On a roll call vote, the motion carried 3-2 on the ordinance as amended, with Mayor Burkett and Commissioner Calderon dissenting.

e. Planning and Zoning Board Residency Requirements for Architects – First Reading (*Dannheisser*)

The Town Clerk read the Ordinance by title as follows:

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90-15(b) ELIMINATING RESIDENCY REQUIREMENTS FOR LICENSED ARCHITECTS TO SERVE ON THE PLANNING AND ZONING OR DESIGN REVIEW BOARDS PROVIDED NO RESIDENT

LICENSED ARCHITECT CAN BE IDENTIFIED AND IS WILLING TO SERVE AT THE TIME OF THE APPOINTMENT AND FURTHER PROVIDED THE ENTIRE COMMISSION RATIFIES SAID APPOINTMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION:

Vice Mayor Imberman moved to introduce this Ordinance for First Reading. Commissioner Levine seconded the motion. On a roll call vote, the motion carried unanimously.

5. Resolutions

No resolutions were presented.

6. Good and Welfare (public comments) *for subjects or items not on the agenda. Public comment on agenda items will be allowed when agenda item is discussed by the Commission.*

The following individuals addressed the Commission: Barbara Cohen, Bob Fisher, Michael Karukin.

7. Town Manager and Town Attorney Reports

No reports were presented.

8. Unfinished Business and New Business

- a. Projects Progress Report (CGA) – The report was submitted.
- b. Solid Waste Report (Rodriguez)

MOTION:

Vice Mayor Imberman moved to adopt the procedure recommended by Staff on a trial basis or until the next budget process. The motion was seconded by Commissioner Levine. On a roll call vote the motion carried 3-2 with Commissioner Calderon and Mayor Burkett dissenting.

- c. Traffic Management Program – Installation of Speed Tables
The Commission deferred action to see if the bulb-out can be removed.
- d. Community Center Architectural Services Funding Sources

MOTION:

Vice Mayor Imberman moved to approve the re-allocation of the dog park budget of \$25,000 and capture the \$50,000 remaining in the Town Hall Hurricane shutter budget and redirect the \$75,000 balance toward the architectural fees for the revised two-story community center

drawings. The Motion was seconded by Commissioner Levine and carried unanimously.

- e. Community Center Site Temporary Passive Park Proposal
No action taken. The consensus of the Commission was to avoid spending unnecessary funds on a temporary project.

9. Mayor, Commission and Staff Communications

- a. Surfside Condominium Matters (*Weinberg*)
No action taken. An announcement was made that all Condominium Presidents were personally invited to attend the meeting and be heard.
- b. Gazette Policy and Guidelines (*Levine/Calderon*)
Following a lengthy discussion regarding the contents of the monthly Gazette Newsletter, Vice Mayor Imberman suggested including only the following content: Commission Highlights, Town Sponsored Events, Parks and Recreation News, Police Department Updates, Code Compliance Reminders, Hurricane Information, Tourist Bureau Events, Library Information and Citizens' Advisories; and eliminating all Mayor and Commissioner Editorials.

MOTION:

Commissioner Weinberg made a motion to accept the suggestion of the Vice Mayor and the Vice Mayor seconded the motion. On a roll call vote, the motion carried 4-1 with Mayor Burkett dissenting.

- c. Volunteer/Committee Recognition (*Levine*)
The Commission agreed that Committee members would be recognized at the end of their term.
- d. Update on Fire Services Opt-Out – (*Burkett*)

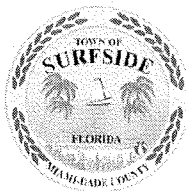
10. Adjournment

The meeting adjourned at 11:52 p.m.

Accepted this _____ day of _____, 2009

Attest:

Charles Burkett, Mayor



**Town of Surfside
Commission Communication**

Agenda Date: March 10, 2009

Subject: Proposed Ordinance Providing for Pre-tax Employee Pension Contributions

Background: At its regular meeting on November 12, 2008, the Surfside Pension Board learned of a potential modification to the Surfside Pension Fund that would allow pre-tax contributions for Town employees contributing to the pension fund. The Pension Board voted unanimously to recommend adoption of an ordinance making the change as soon as practical (Attachment A). At its regular meeting on February 26, 2009, a draft ordinance was presented to the Board (Attachment B). It was noted that the Internal Revenue Service (IRS) allows this under the Internal Revenue Code. Action to allow this would require an ordinance approval by the Town Commission. Presentation of the ordinance would be scheduled for March 10, 2009.

Analysis: The ordinance providing for pre-tax contributions by eligible employees has been prepared (Attachment C). Currently, as required by pension policy, eligible Police employees contribute 8% of their gross salary to the pension fund and eligible Town employees contribute 6% of their gross salary. All contributions are post-tax. With the proposed ordinance in place, employees would pay only current federal income taxes on 92% (and 94%, respectively) of the employee's pay instead of 100% (Attachment D). As such, the employee's take-home pay would increase slightly (approx. 2%).

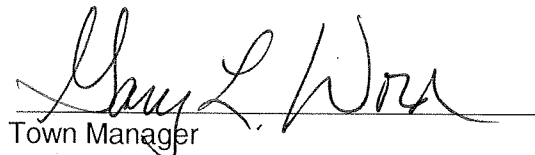
Many local plans already allow this and there is no cost impact to the Town of Surfside. However, the annual W-2 report would show the amount deferred under the Tax Code. If approved the effective date would be January 1, 2009.

Budget Impact: There would be no impact on the FY 2009-10 Budget or future budgets. However, as part of the proposed ordinance, the Pension Board Actuary would prepare a letter stating that implementation of the ordinance would have no financial impact on the Town's pension plan.

Staff Impact: Eligible employees would receive an increase in take-home pay of approximately 2%. Annual W-2 reporting forms would disclose the amount deferred.

Recommendation: It is recommended that the Town Commission introduce for first reading an ordinance amending the Town Code allowing eligible Town of Surfside employees to contribute their required pension contributions on a pre-tax basis to the Surfside Pension System in accordance with IRS Code. Second reading and possible adoption would be scheduled for April 14, 2009

Department Head


Town Manager

TOWN OF SURFSIDE
PENSION BOARD MEETING
Police Training Room, Second Floor
9293 Harding Avenue, Surfside, FL 33154
REGULAR QUARTERLY MEETING – NOVEMBER 12, 2008

trustee signatures and forward to SunTrust, with a report at the next board meeting. Trustee Bershad seconded the motion. The motion carried unanimously.

UNFINISHED BUSINESS

6. Approval/Authorize Chairperson and Secretary to sign – Pension Administrative Services Agreement between Plan and Joan L. Wall (continued from 9/19/08) Trustee Bershad moved to authorize the required signatures. Trustee Torres seconded the motion. The motion carried unanimously.

7. NEW BUSINESS – 40th Annual Police Officers' & Firefighters' Pension Conference, December 1st through 3rd, 2008 at the Radisson Resort Orlando-Celebration, Kissimmee, FL. Registration is free. Trustee Torres will be attending.

8. Trustees' Concerns – Trustee Bershad requested the reports from the investment consultant and investment manager be forwarded directly to each trustee.

9. Input from Active/Retired Members – None.

Attorney Klausner requested **REPORTS** placed ahead of **PRESENTATIONS** for today and on future agendas.

10. REPORTS

- **Attorney** – Attorney Klausner reviewed with the trustees the advantages of having employee contributions made from pre-tax contributions rather than after-tax contributions. There was no cost to this and it would increase employee take home pay and reduce their federal income taxes. The recovery period for after-tax contributions after an employee was receiving pension benefits was now based over thirty years. To make this change it would only require one sentence added to the pension ordinance. It was important to make this change before the end of the tax year to be effective for the new tax year. Trustee Bershad favorably recommended this to council to implement the change as soon as practical. Trustee Torres seconded the motion. The motion carried unanimously. Attorney Klausner recommended contacting Lorna Maltby in his office regarding scheduling additional meetings for 2009.
- **Administrator**
 - Retiree's beneficiary Louella Snell passed away on 9/21/08, there are no additional benefits to be paid
 - Accounting work to be provided to Alyce Jones is still work in progress along with the compensation/contributions data for actuary.

**TOWN OF SURFSIDE
PENSION BOARD MEETING**

Police Training Room, Second Floor
9293 Harding Avenue, Surfside, FL 33154
REGULAR QUARTERLY MEETING – FEBRUARY 26, 2009

Klausner & Kaufman, dated 11/28/08	\$ 1,140.00	
Klausner & Kaufman, dated 12/31/08	\$ 285.00	
Klausner & Kaufman, dated 1/30/09	\$ 342.00	
<u>TOTAL</u>		\$ 1,767.00
SunTrust Bank, 10/1 – 12/31/08		\$ 2,609.13
Burgess Chambers & Associates, Inc., Inv dated 12/18/08, #08-269		\$ 3,750.00
ICC Capital Management, Investment Fee, 1/1 – 3/31/09		\$ 7,596.20
A.M. Jones, CPA., P.A., 1/31/09, statement #133		\$ 7,645.00
Joan L. Wall, Admin Serv., 11/5/08 – 2/20/09, 50 1/4 hrs @ \$45,exp of \$117.91		\$ 2,379.1

7. UNFINISHED BUSINESS. Attorney Kaufman presented an ordinance that would amend the plan by instituting pre-tax employee "pick-up" contributions as permitted by Section 414(h)2 of the Internal Revenue Code as discussed at the last meeting. The ordinance was retroactive to January 1, 2009 in order to provide employees with this benefit on a calendar year basis for 2009. The effect of the ordinance was that employees would only pay current federal income taxes on 92% of pay instead of 100%, which would have the effect of increasing employee take home pay immediately by about 2% on the average, with no increase in the gross pay required. The employee contributions for October, November and December, 2008 should be reported separately to the actuary due to the plan's fiscal year end of September 30th. The ordinance required a letter from the actuary stating the implementation of the ordinance would have no financial impact on the plan. Mr. Wilson advised he would prepare this. Trustee Word stated this would be placed on the March 10th, 2009 town council agenda for first reading. He requested a memorandum explaining the ordinance to be provided to council members. Attorney Kaufman stated he would prepare a memorandum by Wednesday of next week.

NEW BUSINESS

8. a) Status of Implementing Pre-Tax Employee Pension Contributions – previously addressed under Unfinished Business.

8. b) Request from Michael Lemieux of ICC Capital to obtain access to SunTrust Account. The trustees requested this access be of a "view-only" nature. This decision will be communicated to SunTrust with copy of the communication provided to Mr. Lemieux, Alyce Jones and Trustees Bershad and Feldman.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF THE TOWN OF SURFSIDE; CREATING SECTION 2-180(d) OF THE CODE TO INSTITUTE PRE-TAX EMPLOYEE "PICK-UP" CONTRIBUTIONS AS PERMITTED BY SECTION 414(h)2 OF THE INTERNAL REVENUE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside sponsors a defined benefit retirement plan for town employees; and,

WHEREAS, increasing numbers of governmental defined benefit plans provide for pre-tax employee contributions as permitted by Section 414(h) of the Internal Revenue Code;

WHEREAS, the Board of Trustees of the pension plan has recommended amending the plan to institute employee pick-up contributions and,

WHEREAS, the Commission of the Town of Surfside concurs that the adoption of this amendment is in the best interests of the citizens and taxpayers of the NOW, **THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:**

Section 1. Recitals. The above Recitals are true and correct and are incorporated herein by this reference:

Section 2. Code Amended. Section 2-180, Contributions by members, is hereby amended by adding a new sub-paragraph (d) to read as follows:

Section 2-180. Contributions by members.

(d) Effective January 1, 2009, for the purpose of this article the town shall pick up, rather than deduct, the employee contribution at the rate set forth in above, as that term is defined in section 414(h)(2) of the Internal Revenue Code of 1986, as

amended. Furthermore, for purpose of this article, the amount picked up by the town shall be treated as the employee contribution under state law.

Section 3. To the extent of any conflict between the Ordinance and the Charter of the Town, the provision of the Charter shall control.

Section 4. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 5. Inclusion in the Code. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances and that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" shall be changed to "Section" of other appropriate word.

Section 6. Effective Date. This Ordinance shall become effective ten (10) days after adoption on second reading.

PASSED AND ADOPTED on first reading this 10th day of March, 2009


PASSED AND ADOPTED on second reading this th day of April, 2009.

CHARLES W. BURKETT, Mayor

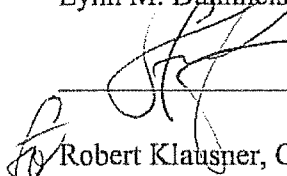
Attest:

Acting Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Lynn M. Dannheisser, Town Attorney



Robert Klausner, Counsel to Employees Retirement Plan

On Second Reading Moved by: _____

Vote:

Mayor Burkett	yes	_____	no	_____
Vice Mayor Imberman	yes	_____	no	_____
Commissioner Calderon	yes	_____	no	_____
Commissioner Levine	yes	_____	no	_____
Commissioner Weinberg	yes	_____	no	_____



Klausner & Kaufman
PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

MEMORANDUM

TO: Surfside Town Council

FROM: Klausner & Kaufman, P.A.
Counsel to the Employees Retirement Plan

RE: Ordinance providing for tax favored treatment of employee contributions

FILE: 060037

DATE: February 27, 2009

The Town maintains a defined benefit retirement plan for its employees. The employees contribute to the funding of that plan at the rate of 8% of their bi-weekly pay.

Since 1981, the Internal Revenue Code, in Section 414(h)(2), has permitted governmental plans (plans sponsored by state or local government) to provide for favorable tax treatment of the employee contribution by "picking up" the contribution before the pay is issued to the employee. For example, if an employee makes \$100 bi-weekly, this provision of the Tax Code would provide for the direct transmittal of \$8 (the 8% employee contribution) to the retirement plan. The employee is then paid the difference. This already happens, but by adopting the ordinance, employees would be able to defer income taxation on the \$8 until they retire.

The effect of this policy would be that employees would only pay current federal income taxes on 92% of pay instead of 100%. This would have the effect of increasing employee take home pay immediately by about 2% on the average, with no increase in the gross pay required.

This deferral policy is in place in over 2000 state and local plans in the United States and has no cost impact to the employer. The only change is that the annual tax reporting on employee W-2 forms will show the amount deferred under the Tax Code. The amounts that employees have already been taxed on are exempt from taxation at retirement. Unfortunately, changes in the Tax Code in 1986 require a 30-year period to recover all of the previously taxed contributions. This makes the passage of the attached ordinance

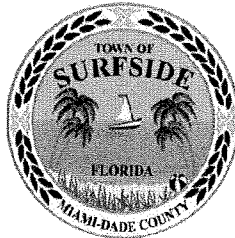
10059 NORTHWEST 1ST COURT, PLANTATION, FLORIDA 33324

PHONE: (954) 916-1202 • FAX: (954) 916-1232
www.robertdklausner.com



even more important to assist employees with some additional take home pay with no required increase in salary.

The Retirement Plan Board of Trustees has unanimously recommended this amendment to the Council for its approval.



TOWN OF SURFSIDE
Office of the Town Attorney

MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser
Town Attorney

Telephone: 305 861-4863
Facsimile: 305 861-1302
E-mail: ldannheisser@townofsurfsidefl.gov

MEMORANDUM

TO: Town Commission

FROM: Lynn M. Dannheisser, Town Attorney

cc: Gary Word, Town Manager

DATE: March 6, 2009

SUBJECT: Procedures Ordinance

The procedures ordinance sponsored by Commissioner Calderon has been in effect and practiced by the Commission for the last couple of meetings. While Commissioner Calderon believes the new procedures have been successful in both having the business of the meeting conducted in a more prompt and efficient manner but also in facilitating the meeting movement, she has asked me to amend the ordinance to address the good and welfare section based on feedback received.

This ordinance would have the Good and Welfare portion of the agenda scheduled for a time certain, i.e., 8:15 to 9:00. In this manner, a fair number of agenda items will have already occurred and citizens who wish to speak on items **not** on the agenda can know they do not need to sit through the whole meeting to be able to speak. They will be heard at approximately 8:15. This amendment leaves in place the concept that the time for this portion of the agenda is limited to 45 minutes (since it involves items that are not the subject of that night's meeting) but that there is a convenient time, forum, and thus, opportunity to be heard.

ORDINANCE NO. 09- _____

**AN ORDINANCE OF THE TOWN COMMISSION OF THE
TOWN OF SURFSIDE, FLORIDA AMENDING SECTION
6.05 OF ARTICLE VI. "RULES OF PROCEDURE FOR
TOWN MEETINGS"; PROVIDING FOR SEVERABILITY;
PROVIDING FOR INCLUSION IN THE CODE;
PROVIDING FOR CONFLICTS AND PROVIDING FOR AN
EFFECTIVE DATE**

WHEREAS, Section 20 of the Town Charter (the "Charter") provides that the Town Commission (the "Commission") of the Town of Surfside (the "Town") shall fix its rules of procedure; and

WHEREAS, Section 11(7) of the Charter allows the Commission to authorize procedures of advisory boards and commissions; and

WHEREAS, Ordinance No. 06-1464 passed on October 10, 2006, the Town Commission adopted a set of rules and procedure, with certain of those rules being such that the Commission now wishes to amend further.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF
THE TOWN OF SURFSIDE, FLORIDA:**

Section 1. Recitals. The above Recitals are true and correct and are incorporated herein by this reference:

**Section 2. ARTICLE VI. "RULES OF PROCEDURE FOR TOWN
MEETINGS"** of the Code is hereby amended to read as follows:¹

Section 2. Rules of Procedure for the Town Commission.

Rule 2.01 Governing Rules; Amendment

Except as may be provided in the Charter, the Town of Surfside Code, Florida laws or by these rules as set forth in this Ordinance, questions of order, the methods of organization and the conduct of business of the Commission and to the extent there is no conflict, the Commission shall be governed by Mason's Manual of Legislative Procedure (1953 Edition). Once enacted, and except as already amended by the provisions contained herein, these rules may be amended by two-thirds (2/3) vote of the entire Commission.

^{1/} Proposed additions to existing Town Code text are indicated by underline; proposed deletions from existing Town Code text are indicated by ~~strike through~~.

Section 3. Officers.

Rule 3.01 Presiding Officer

The Mayor, or a member of the Commission designated by the Mayor, shall preside at all meetings of the Town Commission at which he or she is present. In the absence of the presiding officer, the Commission shall select one of its members as a temporary presiding officer. The presiding officer shall preserve strict order and decorum at all meetings of the Commission. A majority vote of the members present shall govern and conclusively determine all questions of order not otherwise covered. The presiding officer has the power, among other things, to recognize a speaker, secure and retain the floor for the speaker and keep order during the time the floor is taken subject to Mason's rules and to the rules contained in this Ordinance.

Rule 3.02 Clerk

The Town Clerk shall act as Clerk of the Commission. The Clerk of the Commission shall call the roll, prepare the minutes and shall be custodian of the records and shall certify all ordinances and resolutions adopted by the Commission, and perform such other duties as required by the Town Charter.

Rule 3.03 Town Attorney

The Town Attorney, or such member of the office of the Town Attorney as may be designated, shall be available to the Commission at all meetings: The Town Attorney shall act as parliamentarian, and shall advise and assist the presiding officer in matters of parliamentary law.

Rule 3.04 Sergeant-at-Arms

The Town of Surfside police chief, or such other Town official or employee as the chief may designate, shall be the sergeant-at-arms of the Commission meeting, at the request of the presiding officer or the Town Manager. The sergeant-at-arms shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the meetings.

Section 4. Meetings.

Rule 4.01 Regular Meetings

(a) The Commission shall hold regular meetings in accordance with its Charter or, if the Charter provision is amended, in accordance with an Ordinance duly adopted by the Commission, as may be amended from time to time.

(i) All regular and zoning meetings shall be held irrespective of whether or not any particular Commission member (including the Mayor) may be able to attend unless otherwise agreed by a majority of the Commission. Such

meetings shall be held in the Commission chambers at 9293 Harding Avenue, Surfside, Florida 33154, or such location as may be approved by a majority of the Commission members present and shall be open to the public and all news media.

(ii) Regular meetings may be otherwise postponed or canceled by resolution or motion adopted at a regular meeting by a majority of the Commission members present.

(iii) No meeting shall continue beyond 11:00 P.M. unless by a vote the majority of the members of the Commission present, the Commission agrees to extend the meeting beyond this time.

(iv) Workshops may be scheduled at the request of the Town Manager, the Town Attorney or a majority of the Commission at any time, provided appropriate notice is given.

(b) Zoning matters shall be scheduled as part of regular Commission meetings unless otherwise decided by the Commission.

(c) The second reading (public hearing) of the annual budget ordinance shall be considered at a meeting at which the said budget ordinance and the levy of the millage are the only items on the agenda.

Rule 4.02 Special Meetings Emergency Meetings

(a) SPECIAL MEETINGS. A special meeting of the Commission may be called by a majority of the members of the Commission. Whenever a special meeting is called, a notice in writing signed by such majority shall be served upon the Clerk. The Clerk shall forthwith serve either verbal or written notice upon each member of the Commission stating the date, hour and place of the meeting and the purpose for which such meeting is called; and no other business shall be transacted at that meeting. At least twenty-four (24) hours notice must elapse between the time the Clerk receives notice in writing and the time the meeting is to be held.

(b) EMERGENCY MEETINGS. An emergency meeting of the Commission may be called by the Mayor in accordance with prescriptions of the Town Charter whenever in his or her opinion an emergency exists that requires immediate action by the Commission. Whenever such emergency meeting is called, the Mayor shall notify the Clerk who shall forthwith serve either verbal or written notice upon each member of the Commission, stating the date, hour and place of the meeting and the purpose for which it is called, and no other business shall be transacted at that meeting. At least twenty-four (24) hours shall elapse between the time the Clerk receives notice of the meeting and the time the meeting is to be held.

(c) If after reasonable diligence, it is impossible to give notice to each Commissioner, such failure shall not affect the legality of the meeting if a quorum is present. The minutes of each special or emergency meeting shall show the manner and

method by which notice of such special or emergency meeting was given to each member of the Commission, or shall show a waiver of notice All special or emergency meetings shall be open to the public and shall be held and conducted in the Commission Chambers, Town Hall, 9293 Harding Avenue, Surfside, Florida 33154, or other suitable location within Town of Surfside, Florida. Minutes thereof shall be kept by the Clerk.

(d) No special or emergency meeting shall be held unless notice thereof is given in compliance with the provisions of this rule, or notice thereof is waived by a majority of the entire membership of the Commission and in accordance with the Town Charter.

Section 5. Committees.

Rule 5.01 Committees

There may such standing committees of the Town Commission as the Commission deems necessary to conduct the business of the Town appropriately and in accordance with the Town Charter. Such committees shall be governed by these rules of procedure and if advisory, shall be subject to the Florida Sunshine and Public Records Laws.

Section 6. Conduct of meetings; Agenda.

Rule 6.01 Call To Order

Promptly at the hour set for each meeting, the members of the Commission, the Town Attorney, the Manager and the Clerk shall take their regular stations in the Commission chamber. The presiding officer shall take the chair and shall call the Commission to order immediately. In the absence of the presiding officer, the Clerk shall then determine whether a quorum is present and in that event shall call for the election of a temporary presiding officer. Upon the arrival of the presiding officer, the temporary presiding officer shall relinquish the chair upon the conclusion of the business immediately before the Commission.

Rule 6.02 Roll Call

The Clerk shall call the roll of the members, and the names of those present shall be entered in the minutes. In the event the roll call reflects the absence of any member on official Town business that fact shall be noted in the minutes. Any Town Commissioner who intends to be absent from any Commission meeting shall notify the Clerk of the board of the intended absence as soon as convenient.

Rule 6.03 Quorum

A majority of the Commissioners then in office shall constitute a quorum. No ordinance, resolution or motion shall be adopted by the Commission without the affirmative vote of the majority of all the members present.

Rule 6.04 Failure To Attain A Quorum

Should no quorum attend within thirty (30) minutes after the hour appointed for the meeting of the Commission, the presiding officer or the Clerk may adjourn the meeting until another hour or day unless by unanimous agreement, those members present select another time. The names of the members present and their action at such meeting shall be recorded in the minutes by the Clerk.

Rule 6.05 Agenda

(a) ORDER OF BUSINESS. There shall be an official agenda for every meeting of the Commission which shall determine the order of business conducted at the meeting. The order of business shall be as follows: (1) call to order/roll call of members, pledge of allegiance, approval of minutes, agenda/order of business (additions/deletions), special presentations, (2) Quasi-judicial hearings (3) consent agenda at the pleasure of the Commission (4) Ordinances and public hearings, which shall be held at specially scheduled time, if the notice so states, (5) Resolutions (6) Good and Welfare shall be heard at a time certain: 8:15 – 9:15 (7) Town Manager and Town Attorney Reports, if any (8) unfinished business and new business (9) Mayor and Commission Communications/Staff Communications.

- (i) Items shall be considered in the order in which they are placed on the agenda unless a majority of the Commissioners determines to deviate from the printed agenda.
- (ii) The Good and Welfare portion of the Agenda set for 8:15 shall be restricted to discussion on subjects not already specifically scheduled on the agenda for discussion and debate. In no event shall this portion of the agenda be allotted more than forty-five minutes with each speaker to be given no more than three (3) minutes, unless by vote of a majority of the members of the Commission present, it is agreed to extend the time frames. Likewise, Commission members shall be restricted to speaking three (3) minutes each unless an extension is granted in the same manner as set forth in the prior sentence. The rules of Section 8.01 (e) as set forth hereinbelow shall be observed during this portion of the Agenda.
- (iii) The Commission shall not take action upon any matter, proposal, or item of business which is not listed upon the official agenda, unless it is approved at the meeting by a majority of the entire Commission, which shall have first consented to the matter for consideration. No ordinance, resolution or other matter listed on the agenda for public hearing or the vote thereon may be deferred until a later time unless a majority of the entire Commission shall vote in favor of such deferral.

(a) **AUTHORITY TO PLACE ITEMS ON AGENDA.** Matters may be placed on the agenda by any Town Commissioner, the Manager, the Town Attorney and the Clerk of the Commission.

(b) **APPROVAL OF MINUTES.** All minutes shall be summary in nature and verbatim. A copy of such minutes shall, upon completion by the Clerk, be delivered to the Town Manager and Town Attorney. The minutes of prior meetings may only be approved by a majority of the Commissioners present at a meeting of the Commission, and upon such approval shall become the official minutes.

Rule 6.06 Ordinances. Resolutions. Motions. Contracts.

(a) **PREPARATION AND ENACTMENT OF ORDINANCES.** The Town Attorney shall prepare ordinances and resolutions. Ordinances may be introduced, listed by title and shall be read by title only before consideration by the Commission on first reading. At public hearing, each ordinance shall be voted on individually by a call of the roll. Only resolutions and motions may be enacted by voice vote calling for "ayes" or "no" on the question.

(b) **APPROVAL BY TOWN ATTORNEY.** All ordinances, resolutions and contract documents, before presentation to the Commission, shall have been reduced to writing and shall have been approved to form and legality by the Town Attorney. Prior to presentation all such documents may be referred to the head of the department; under whose jurisdiction the administration of the subject matter of the ordinance, resolution or contract document would devolve.

(c) **INTRODUCTION AND SPONSORSHIP.** Ordinances, resolutions and other matters and subjects requiring action by the Commission may be introduced and sponsored by a member of the Commission, except that either the Manager or the Town Attorney may present ordinances, resolutions and other matters or subjects to the Commission for consideration, and any Commissioner may assume sponsorship thereof by moving that such ordinance, resolution, matter or subject be adopted in accordance with law; otherwise they shall not be considered.

(d) **SUNSET.** There is no requirement for any ordinance to contain a sunset provision.

(e) **ZONING EXCEPTION.** The provisions of this Rule 5.06 shall not be applicable to zoning resolutions which shall be governed exclusively the Zoning Code and applicable caselaw interpreting same.

(f) **NO COMMISSION JURISDICTION.** Prior to the Commission's considering any resolution over which the Commission does not have substantive jurisdiction, including resolutions expressing the Commission's intent or opinion, a preliminary vote shall be taken to determine whether it is appropriate for the Commission to consider such resolution. Unless the Commission, by a two-thirds (2/3) vote of the members present, agrees to consider the resolution, the resolution shall be deemed to have failed. If the

Commission agrees to consider the resolution, the resolution shall be heard after all other resolutions sponsored by Commissioners have been addressed by the Commission. If the Commission decides to discuss such resolution, the resolution shall require a two-thirds (2/3) affirmative vote of the Commissioners present in order to be passed. The provisions of this ordinance shall not apply to resolutions relating to state or federal legislative priorities.

**Rule 6.07 Statement of Fiscal Impact Required For Ordinances;
Exceptions**

Prior to the second reading of any ordinance, the Town Manager shall prepare a written statement setting forth the fiscal impact, if any, of the proposed ordinance. No ordinance shall be considered on second reading if the statement of fiscal impact is not submitted with the ordinance as part of the agenda. The provisions of this rule shall not apply to any emergency ordinance or any budget ordinance.

Rule 6.08 Limitation On Agenda Items

No Commissioner shall sponsor or cosponsor a total of more than three ordinances for first reading and three resolutions at any Commission meeting. This provision shall not be applied to ordinances of resolutions which are intended to correct scrivener's errors.

Section 7. Public Participation.

Rule 7.01 Persons Authorized on the Dais

No person, except Town officers or their representatives, shall be permitted on the dais unless authorized by the presiding officer or a majority of the Commission.

Rule 7.02. Citizens Presentations; Public Hearings

(a) CITIZENS' PRESENTATIONS. Any citizen shall be entitled to be placed on the official agenda of a regular meeting of the Commission and be heard concerning any matter within the scope of the jurisdiction of the Commission. Only Commissioners and the Town Manager may place a citizen on the official agenda.

(b) PUBLIC HEARINGS. Any citizen shall be entitled to speak on any matter appearing on the official agenda under the section "Public Hearings."

(c) PUBLIC DISCUSSION ON AGENDA ITEMS. No citizen shall be entitled as a matter of right to address the Commission on any matter listed on or added to the official agenda which is not scheduled for public hearing, discussion or debate. When the Commission considers an agenda item that is not a public hearing and on which the public comment is either unanimously in favor or unanimously against the item's passage, input from members of the public shall be limited to no more than five (5) minutes on any given item.

Rule 7.03 Registration Of Speakers

- (a) Registration of speakers may be required-if requested by the Clerk and provided the Clerk shall prepare appropriate registration cards. The cards shall require the speaker provide his/her name, address, and the agenda item on which he or she is speaking if registration is required on a particular agenda item, failure to comply with the registration provisions of this paragraph shall prohibit a person from speaking.
- (b) For any single (1) agenda item, and except for zoning, no more than one-half (1/2) hour per side shall be allocated to speakers from the public. The presiding officer shall limit the time of each individual speaker in order to insure compliance with this rule.

Rule 7.04 Addressing Commission, Manner, Time

Each person, other than salaried members of the Town staff, who addresses the Commission shall step up to a podium and shall give the following information in an audible tone of voice for the minutes:

- (a) Name;
- (b) Address;
- (c) Whether the person speaks on his or her own behalf, a group of persons, or a third party; if the person represents an organization, the person shall also indicate the number of members in the organization, the annual dues paid by the members, the date of the most recent meeting of the organization's board or governing council, and whether the view expressed by the speaker represents an established policy of the organization approved by the board or governing council, if requested; if the person is speaking on behalf of a group, s/he shall be required to register as a lobbyist if required by that Ordinance and shall state for the record: (i) Compensation, if any, (ii) whether the person or any immediate family member has a personal financial interest in the pending matter, other than as set forth in (i) if requested.

Unless further time is granted by the Commission and with the sole exception of zoning items which shall not have a prescribed time limit unless imposed by the Chair in accordance with the advice of the Town Attorney, the statement shall be limited to the times prescribed herein. All remarks shall be addressed to the Commission as a body and not to any member thereof. No person, other than Commissioners and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Commission, without the permission of the presiding officer. No question shall be asked a Commissioner except through the presiding officer.

Rule 7.05 Decorum

Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Commission shall be barred from further appearance before the Commission by the presiding officer, unless permission to continue or again address the

Commission is granted by the majority vote of the Commission members present. No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. Signs or placards may be disallowed in the Commission chamber by the presiding officer. Persons exiting the Commission chambers shall do so quietly.

Section 8. Rules of Debate.

Rule 8.01. Rules Of Debate

(a) QUESTIONS UNDER CONSIDERATION. On any agenda item, in order for debate to ensue, the presiding officer shall call for a motion to accept the matter at hand, whether it is an ordinance, resolution, motion, etc., for "discussion purposes only" and upon receipt of a second to that motion, debate may begin. When a motion is presented and seconded, it is under consideration and no other motion shall be received thereafter, except to adjourn, to lay on the table, (to lay the pending question aside temporarily when something else of immediate urgency has arisen), to postpone, or to amend the motion until the question is decided. These motions shall have preference in the order in which they are mentioned and the first two shall be decided without debate. Final action upon a pending motion may be deferred until a date certain by a majority of the members present. If, after debate, the motion requires amendment, then the Commissioner making a motion shall state as follows: "I move we adopt Ordinance (resolution) as read" ["as amended" by Commissioner _____]. The Town Attorney or the Town Clerk may request and/or assist with a restatement of the motion for the record. The Commissioner seconding said motion shall say "I second the motion ["as amended"]."

(b) AS TO THE PRESIDING OFFICER. The Mayor, as presiding officer, shall not move or second an item of debate. The presiding officer, however, upon relinquishing the chair, may move or second an item, vote, subject only to such limitations as are by these rules imposed upon all members.

(c) GETTING THE FLOOR, IMPROPER REFERENCES TO BE AVOIDED. Every member desiring to speak for any purpose shall address the presiding officer, and upon recognition, shall be confined to the question under debate avoiding all personalities and indecorous language.

(d) INTERRUPTION; CALL TO ORDER; APPEAL A RULING OF THE CHAIR. A member once recognized shall not be interrupted when speaking unless it is a call to order or as herein otherwise provided. If a member be called to order, the member shall cease speaking until the question of order is determined by the presiding officer, and if in order, the member shall be permitted to proceed. Any member may appeal to the Commission from the decision of the presiding officer upon a question of order when, without debate, the presiding officer shall submit to the Commission the question, "Shall the decision of the chair be sustained?" and the Commission shall decide by a majority vote.

(e) **TIME LIMIT FOR DEBATE.** Debate on any motion pertaining to an item on the consent agenda shall be limited to three (3) minutes. After three (3) minutes of debate the item shall be removed from the consent agenda, if any, and placed on the regular Town Commission agenda. The discussion by the Commissioners on any one item shall not exceed one-half (1/2) hour.

(f) **PRIVILEGE OF CLOSING DEBATE.** Any Commission member (including the presiding officer) shall have the privilege of closing the debate by making a motion to that effect and provided it is affirmed by vote of a majority of the Commissioners present.

(g) **METHOD OF VOTING.** After the debate is closed, and/or the motion is restated if necessary, the presiding officer shall call for a vote on the motion. Voting shall be by roll call or voice vote, or paper ballot (at the decision of the majority of the Commission in certain circumstances) depending on whether the ballot is on an ordinance or resolution or motion. Ordinances require a roll call vote by calling the names of the Commissioners alphabetically by surname, except that the names shall be rotated after each roll call vote, if requested, so that the Commissioner who voted first on a preceding roll call shall vote last upon the next subsequent matter; provided, however, that the presiding officer, if a member of the Commission, shall always cast the last vote.

The Clerk shall call the roll, tabulate the votes, and announce the results. The vote upon any resolution, motion or other matter may be by voice vote as previously noted, provided that the presiding officer or any Commissioner may require a roll call to be taken upon any resolution or motion.

(h) **EXPLANATION OF VOTE; CONFLICTS OF INTEREST.** There shall be no discussion by any Commissioner voting, and the Commissioner shall vote yes or no. Any Commissioner, upon voting, may give a brief statement to explain his or her vote. A Commissioner shall have the privilege of filing with the Clerk a written explanation of his or her vote. Any Commissioner with a conflict of interest on a particular matter shall refrain from voting or otherwise participating in the proceedings related to that matter and may leave the Commission chambers until the consideration of that matter is concluded. Any such Commissioner who does not leave the chambers shall be deemed absent for purposes of constituting a quorum, counting the vote, or for any other purpose.

(i) **TIE VOTES.** Whenever action cannot be taken because the vote of the Commissioners has resulted in a tie, the status quo shall continue in effect and the proposed ordinance, resolution or motion that produced the tie vote shall be removed from the agenda without prejudice to its reintroduction on a de novo basis at a later time; provided that in zoning and other quasi-judicial matters when action on a resolution results in a tie vote, such resolution shall be carried over to the next regularly scheduled meeting for the consideration of such quasi-judicial matters unless the Commission designates a different time for such reconsideration.

(j) **VOTE CHANGE.** Any Commissioner may change his or her vote before the next item is called for consideration, or before a recess or adjournment is called, whichever

occurs first, but not thereafter. In this case, the Clerk shall call back the vote and verify the outcome for the presiding officer.

(k) NO MOTION OR SECOND. If an agenda item fails to receive a motion or second, it shall be removed from the agenda and shall be reintroduced only in accordance with the renewal provisions of Rule 7.01 (m).

(l) RECONSIDERATION. An action of the Commission may be reconsidered only at the same meeting at which the action was taken, or, if not, at the next meeting thereafter a motion to reconsider may be made only by a Commissioner who voted on the prevailing side of the question and must be concurred in by a majority of those present at the meeting. A motion to reconsider shall not be considered unless at least the same number of Commissioners is present as participated in the original vote, or upon affirmative vote of two-thirds (2/3) of those Commissioners present. Adoption of a motion to reconsider shall rescind the action reconsidered.

(m) RENEWAL. Once action is taken on a proposed ordinance or resolution neither the same matter nor its repeal or rescission may be brought before the Commissioner again for a three (3) month period following the said action unless application for renewal by three (3) Commissioners is first submitted to the presiding officer. Should an ordinance or resolution be proposed that raises the same previously resolved matter, or its repeal or rescission, indifferent or modified form during the three (3) month period, the presiding officer may declare the proposal out of order.

(n) ADJOURNMENT. A motion to adjourn shall always be in order and decided without debate.

(o) SUSPENSION OF THE RULES. No rule of procedure adopted by this board shall be suspended except by an affirmative vote of two-thirds (2/3) of the Commissioners present.

Section 9. Additional Ordinances Proscribing Town Commission Procedure.

Rule 9.01. Representation of Town of Surfside

Whenever the Commission deems it necessary or desirable that the Commission shall be represented at meetings, conferences or other occasions involving other governmental entities, agencies, officials or groups, or non-governmental organizations, or departments, agencies or officials of the *Town* government, the presiding officer may designate members of the Commission to represent the Commission at such meetings, conferences or other occasions, with the consent of the designee. A majority of the Commissioners then present may disapprove any such appointment. Such representatives shall have no power to act for or on behalf of the Commission, or to make any commitment or binding obligation on behalf of the Commission or the Town. Such representatives shall report to the Commission with regard to such meeting, conference or other occasion.

Rule 9.02. Noncompliance With Procedural Rules

If a procedural rule of this board is not complied with as a result of either mistake, inadvertence or excusable neglect, as those terms are defined by law, by either the presiding officer or the parliamentarian, then the validity of the underlying substantive ordinance resolution, motion or other action shall in no way be affected thereby, and the failure of compliance with said procedural rule shall not be the basis for any person or party to challenge any ordinance, resolution or other action of this board.

Section 10. Amendment to Rules.

Once adopted, changes to these rules may be made as changes to any other ordinance are made by a majority vote and after two readings of the amendatory ordinance.

Section 3. To the extent of any conflict between the Ordinance and the Charter of the Town, the provision of the Charter shall control. To the extent of any conflict between Mason's Rules and the Rules of this Ordinance, this Ordinance shall control.

Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 5. It is the intention of the Town Commissioners, and it is hereby ordained that the provisions of this ordinance, shall become and be made a part of the Code of the Town of Surfside, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 6. This ordinance shall become effective upon adoption on second reading.

PASSED AND ADOPTED on first reading this _____ day of _____, 2009.

PASSED AND ADOPTED on second reading this ____ day of _____, 2009.

CHARLES W. BURKETT, Mayor

Attest:

Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



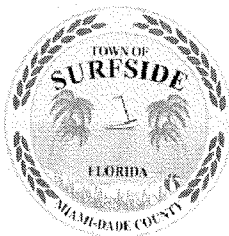
Lynn M. Dannheisser, Town Attorney

On Second Reading Moved by: _____

On Second Reading Seconded by: _____

Vote:

Mayor Burkett	yes	no
Vice Mayor Imberman	yes	no
Commissioner Calderon	yes	no
Commissioner Levine	yes	no
Commissioner Weinberg	yes	no



Town of Surfside Commission Communication

Agenda Date: March 10, 2009

Subject: SOLID WASTE FEE REDUCTION – COMMERCIAL ESTABLISHMENTS

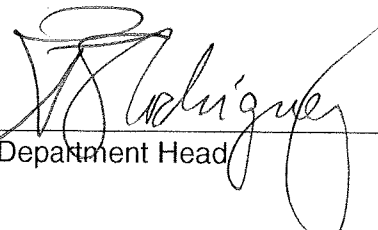
Background: At the February 10th Commission Meeting, Public Works presented a proposal to modify the commercial and residential waste collection service schedules. In general, the change involved primarily a reduction in the number of collection days from six days to five. The commercial component of this proposal also entailed a fee reduction of ten percent to be effective on or about October 1, 2009. Although the Commission passed the proposal, the fee reduction requires passing an ordinance to allow implementation.

Analysis: The reduction of the fee will benefit a wide spectrum of Town business establishments, including first and second floor businesses, restaurants, food stores, and hotels/motels. The revenue impact associated with the fee reduction is estimated to be approximately \$22,400. Government establishments are excluded from the fee adjustment. As outlined in the February presentation and corresponding Commission Communication, part of the projected savings to be realized by the program changes will be used to cover the revenue impact.

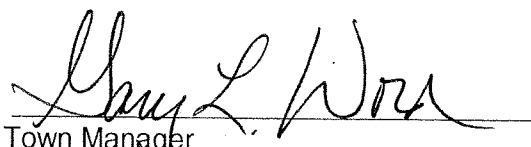
Budget Impact: As previously mentioned, will decrease annual Solid Waste Fund collection revenues in the amount of \$22,400 effective October 1, 2009.

Staff Impact: None.

Recommendation: It is recommended that the Surfside Town Commission approve the attached Ordinance granting a 10 percent fee reduction to Town business establishments. Said fee reduction is to take effect on or about October 1, 2009.



Department Head



Town Manager

ORDINANCE NO. 09- _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 66-35, "SCHEDULE OF FEES" OF THE CODE OF ORDINANCES TO ESTABLISH NEW RATES FOR SOLID WASTE REMOVAL TO DOWNTOWN COMMERCIAL ESTABLISHMENTS WITH A 10% FEE REDUCTION WHICH SHALL BE EFFECTIVE OCTOBER 1, 2009; PROVIDING FOR INCLUSION IN THE CODE BY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 11 of the Town Charter (the "Charter") of the Town of Surfside ("Town") gives the Town Commission (the "Commission") the power to levy, assess and collect fees; and

WHEREAS, on September 16, 2008 at its second budget hearing and by Ordinance 2008-1500, the Commission increased solid waste fees but after due consideration and the effectuation of certain efficiencies, staff is recommending and the Commission is willing to establish a 10% rate reduction for solid waste removal to downtown commercial establishments as it is in the best interest of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA as follows:

Section 1. **Recitals.** The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. **Code Amendment.** The Town Manager or his designee is authorized to establish a 10% rate reduction for solid waste removal to downtown

commercial establishments as provided in Attachment "A" which is made a part of this ordinance as if it were included herein.

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective on passage on Second Reading or as otherwise provided by Florida law.

PASSED and ADOPTED on first reading this ____ day of _____, 2009.

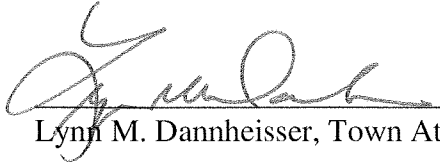
PASSED and ADOPTED on second reading this ____ day of _____, 2009.

Charles W. Burkett, Mayor

Attest:

Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



Lynn M. Dannheisser, Town Attorney

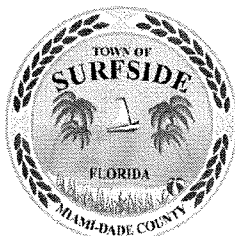
On Second Reading Moved by: _____

On Second Reading Seconded by: _____

Vote:

Mayor Burkett	yes _____	no _____
Vice Mayor Imberman	yes _____	no _____
Commissioner Calderon	yes _____	no _____
Commissioner Levine	yes _____	no _____
Commissioner Weinberg	yes _____	no _____

[illegible]



TOWN OF SURFSIDE
Office of the Town Attorney

MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser
Town Attorney

Telephone: 305 861-4863
Facsimile: 305 861-1302
E-mail: ldannheisser@townofsurfsidefl.gov

MEMORANDUM

TO: Town Commission

FROM: Lynn M. Dannheisser, Town Attorney *LMD*

cc: Gary Word, Town Manager

DATE: March 5, 2009

SUBJECT: Legal Defense of Public Officers Employees and Agents

The Town Code in Section 140.1 presently provides the authority for the Town to defend ethics charges but does not provide any process for same nor does it address the larger issue of legal defense. This, the Town Attorney's Office presents this Ordinance for your approval.

This Ordinance authorizes the Town to provide a legal defense of public officers, employees, and agents including payment of reasonable attorney's fees and costs incurred by any past or present member of the Town Commission, or employees of the Town, or any person appointed by Town Commission to any board or committee, when and in the event that such person successfully defends or prevails in civil, criminal or ethical investigations or actions, arising out of and in connection with the scope of Town employment or service.

This issue has been discussed by the Commission previously without resolution but this matter came up once again at the Charter Review Committee where at least one member inquired as to whether members of the Committee were protected in the event they were sued. The purpose of and rationale for this proposed ordinance is as follows:

- 1) to guarantee the Town be able to attract elected officials to run for office, serve on appointed boards or committees and to attract talented employees to serve the Town;
- 2) to encourage the continued participation in government by individuals appointed to various boards, positions, and committees by limiting the potential liability to those persons of having to expend their own funds for the payment of reasonable attorney's fees and costs when they successfully defend or prevail in civil, criminal or ethical investigations, or actions, arising out of and in connection with the scope of Town employment or service;
- 3) to encourage all qualified persons to seek election to the Commission by alleviating the potential liability to them of having to expend their own funds for the payment of reasonable attorney's fees and costs when they successfully defend or prevail in civil, criminal or ethical investigations, or actions, arising out of and in connection with the scope of Town employment or service;
- 4) because the appropriate statute of limitations could result in a person being charged with a violation even though such person is no longer a member of the Commission, a Town employee, or a member of any board or committee, it is necessary to encourage the continued participation in government by limiting the potential liability to such persons of having to expend their own funds for the payment of reasonable attorney's fees and costs when such persons successfully defend or prevail in civil, criminal or ethical investigations or actions arising out of and in connection with the scope of Town employment or service.

This Ordinance is not applicable to employee discipline or termination proceedings and the reimbursement is within the discretion of the Commission. While the Florida Statutes and common law give the Town such basic authority in certain cases, this is a comprehensive regulation which among other things provides a process of review, includes committee and board members in this coverage, allows progress payments on attorneys fees and costs if there is a determination that there is a reasonable likelihood of success on the merits, and makes certain demands on the indemnified party to undertake certain actions before s/he is entitled to reimbursement.

ORDINANCE No. 09 - ____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 2 "ADMINISTRATION" OF THE TOWN CODE OF ORDINANCES TO CREATE AND ADOPT SECTION 2-27 "LEGAL DEFENSE OF PUBLIC OFFICERS, EMPLOYEES AND AGENTS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town wishes to authorize the legal defense of public officers, employees and agents including payment of reasonable attorney's fees and costs incurred by any past or present member of the Town Commission or employees of the Town, or any person appointed by the Town Commission to any board or committee, when such person successfully defends or prevails in civil, criminal or ethical investigations, or actions, arising out of and in connection with the scope of Town employment or service in addition to Section 140.1 of the Code of the Town of Surfside relating to the defense of charges of ethics violation which shall now be subject to the process described in this Ordinance;

WHEREAS, the purpose served by the passage of such an ordinance is 1) to guarantee the Town be able to attract elected officials to run for office, serve on appointed boards or committees and to attract talented employees to serve the Town; 2) to encourage the continued participation in government by individuals appointed to various boards, positions, and committees by limiting the potential liability to those persons of having to expend their own funds for the payment of reasonable attorney's fees and costs when they successfully defend or prevail in civil, criminal or ethical investigations, or actions, arising out of and in connection

with the scope of Town employment or service; 3) to encourage all qualified persons to seek election to the Commission by alleviating the potential liability to them of having to expend their own funds for the payment of reasonable attorney's fees and costs when they successfully defend or prevail in civil, criminal or ethical investigations, or actions, arising out of and in connection with the scope of Town employment or service; and 4) because the appropriate statute of limitations could result in a person being charged with a violation even though such person is no longer a member of the Commission, a Town employee, or a member of any board or committee, it is necessary to encourage the continued participation in government by limiting the potential liability to such persons of having to expend their own funds for the payment of reasonable attorney's fees and costs when such persons successfully defend or prevail in civil, criminal or ethical investigations or actions arising out of and in connection with the scope of Town employment or service.

WHEREAS, the Town Commission hereby determines that this Ordinance will promote the health, safety, and welfare of the Town.

THE COMMISSION OF THE TOWN OF SURFSIDE HEREBY ORDAINS:

Section 1. **Recitals.** The above Recitals are true and correct and are incorporated herein by this reference.

Section 2. **Legal Defense.** Section 2-27 "Legal Defense of Public Officers, Employees and Agents", is hereby created and adopted to provide as follows:

Section 2-27. Legal Defense of Public Officers, Employees and Agents.

A. Town to provide legal representation.

The Town of Surfside is authorized to provide any public officer, employee or agent as defined hereunder reimbursement of legal expenses in order to defend or prevail in civil, criminal or ethical investigations or actions arising out of, and in connection with the scope of Town employment or service subject to the terms and conditions hereunder. Defense of such action includes, but is not limited to, any civil rights lawsuit seeking relief personally against the public officer, employee, or agent for an act or omission under color of state law, custom, or usage, wherein it is alleged that such public officer, employee, or agent has deprived another person of rights secured under the Federal Constitution or laws, recall petitions, allegations of violations of sunshine law or other criminal or ethics charges (with such ethics defense more specifically described in Section 140.1 of the Code of Ordinances.)

B. Definitions. When used in this section, the following words shall have the meanings herein ascribed to them:

- (1) *Board or committee* shall mean any organization organized either under the authority, control and direction of the Town Commission or independent entity serving a governmental function and coming within the purview of the government in the Sunshine Law of the state. Whenever the context so requires it shall include any combination of the foregoing and the plural if more than one would be applicable.
- (2) *Town funds* shall mean any and all funds of money authorized for expenditures by the Town Commission not otherwise prohibited.

(3) *Reasonable attorney's fees and costs or legal expenses* shall mean fees earned by an attorney licensed to practice law in the state based on the customary per hour rate charged in the Town for similar work performed by the attorney and necessary defense expenses directly incurred in defending an official in accordance with this section.

(4) *Reimbursement of Legal Expenses* shall mean payment of same at the conclusion of the investigation or litigation, as the case may be, or in the event of a hardship of an elected official payment of same on a monthly basis if the Town Manager and Town Attorney concur that there is a reasonable likelihood of success on the merits of any given case.

(5) *Successfully defend or prevail* shall mean the dismissal, the finding of not guilty, or other verdict or adjudication in favor of the persons covered herein and shall apply to individual counts, charges, or allegations. A failure to successfully defend or prevail against one or more counts, charges or allegations shall not necessarily affect the application of this section to other counts, charges or allegations which were successfully defended or against which the officer or employee prevailed.

(6) *Public Official, Officer, or Employee* shall mean and include every mayor, Town commissioner, officer, agent, or employee of the Town, masculine or feminine, whether elected, appointed or employed, with or without compensation, including all advisory board and committee members.

C. Limitations on the recovery of legal fees and costs.

Reimbursement to a Town employee, agent or official for legal fees and costs incurred in successfully defending an action arising out of his official duties is subject to all of the following requirements:

- (1) The Town employee, agent or official must have been subjected to civil, criminal or ethical investigations or actions from action taken in the performance and furtherance of official Town business or duties.
- (2) The Town employee, agent or official must have been acting, at the time of such action, directly in the scope of his employment, and within the scope of his authority.
- (3) The Town employee, agent or official must have acted in good faith.
- (4) The Town employee, agent, or official must have been found not guilty, or have some other verdict or adjudication in favor of the persons covered herein or have had the case against him/her/her must have been dismissed or otherwise discharged, in order for reimbursement to be allowed.
- (5) The amount of reimbursement shall be for all reasonable attorney's fees and costs incurred in defending such investigation or action as determined by the Town Manager and Town Attorney. If either has a question, the matter shall be submitted to the Commission, who, by majority vote, shall determine that such amounts are reasonable and, if not, shall award an amount it determines to be reasonable.
- (6) Reimbursement of legal expenses out of the fund herein created shall not be made if payment of such attorney's fees and costs is otherwise paid under an insurance policy providing for such reimbursement or payment.
- (7) The obligation of the Town under this Ordinance shall extend only to officials as defined hereunder, and nothing in this Ordinance shall extend the liability of the Town to the general public, and no act or omission under this Ordinance shall constitute any waiver of defenses or any admission of liability to the general public.

(8) Town employees, agents or officials shall execute, as principal or surety, any and all judicial or other bonds, including supersedeas or appeal bonds, or post cash or other security in lieu of surety bonds as required by the Town Manager and Town Attorney or overall by the Town Commission.

(9) Town employees, agents and officials are hereby authorized, required and directed to promptly perform any and all acts necessary, expedient or proper to carry out the purposes of this article. Each official protected by this Ordinance shall promptly cooperate in his or her own defense and shall:

- (i) Attend hearings, trials and depositions and furnish such evidence as shall be needed.
- (ii) Grant the Town full rights of subrogation and the right to recover under any claims, offsets or counterclaims of the protected official arising in connection with the controversy involved; provided, that if the protected official shall recover any sum, then the Town shall deduct all disbursements, costs and expenses of litigation including attorneys' fees and any award against the Town, and the remainder shall belong to the protected official.
- (iii) Execute and deliver to the Town all assignments, papers and documents needed to carry out the purposes of this article.

D. Process for Reimbursement of legal fees and costs.

(1) Any person who believes that he or she is entitled to payment of legal fees and costs pursuant to this section shall file a written request with the Town Attorney, which request shall include:

- (a) The name and current address of the person making the request;

- (b) A description of the entity conducting the investigation or proceeding;
- (c) The case number or file number of the investigation or proceeding, if known;
- (d) A description of each count, charge or allegation made or being investigated;
- (e) The dates that the alleged wrongful incidents are alleged to have occurred;
- (f) The person's office or position of employment with the Town on the dates described above;
- (g) A narration of the reasons why such person believes that the request meets the criteria set forth in this ordinance and that attorney's fees and costs should be reimbursed by the Town;
- (h) The names, address, and telephone number of the attorney representing such person against the counts, charges or allegations described in (d) above;
- (i) A description of the fee arrangement or agreement between the person and his or her attorney; the amount of attorney's fees and costs paid to the date of the written request and the total balance due, if any, of all attorney's fees and costs that have been incurred; and
- (j) Such other information as the Town commission or Town Attorney may deem necessary.

(2) The Town Commission shall be advised of the written request within a reasonable time following receipt by the Town Attorney and the Attorney shall either request additional information from the applicant, continue the request to a date and time certain, or make a recommendation to the Town commission for approval or denial of the request.

(3) Upon receipt of the written request, the Town attorney shall request the Town Manager to determine and advise the Commission whether Town insurance providers will indemnify the Town for any attorney's fees and costs incurred by the applicant.

(4) Notwithstanding anything to the contrary stated or implied herein, this section is not applicable to employee discipline or termination proceedings. In the event such discipline or termination proceedings occur concurrently with the issues or proceedings described herein, such discipline or termination proceedings shall not affect the application of this section to such non-discipline or non-termination issues or proceedings.

(5) The protection guaranteed by this Ordinance shall exist during and after the term of office or employment for liabilities incurred during the term of office or employment.

Section 3. Severability. If any section, sentence, clause, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

Section 4. Inclusion in the Code. It is the intention of the Mayor and Town Commission of the Town of Surfside, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the Town of Surfside, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. Conflicts. All Ordinances and Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall become effective in ten (10) days after second reading or in the event of any action contemplated by this Ordinance between first and second reading, immediately after first reading.

PASSED and **ADOPTED** on First Reading the 10th day of March, 2009.


PASSED and **ADOPTED** on Second Reading this _____ day of _____, 2009.

Charles W. Burkett, Mayor

Attest:

Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Lynn M. Dannheisser, Town Attorney

Moved by: _____

Second by: _____

Vote:

Mayor Burkett	yes	_____	no	_____
Vice Mayor Imberman	yes	_____	no	_____
Commissioner Calderon	yes	_____	no	_____
Commissioner Weinberg	yes	_____	no	_____
Commissioner Levine	yes	_____	no	_____

Ordinance No. _____



Town of Surfside Commission Communication

Agenda Date: March 10, 2009

Subject: PROPOSED FENCES AND WALLS ORDINANCE

Background: Currently, the Town of Surfside's Zoning Ordinance permits ornamental fences or walls to be placed in the front or side corner setbacks subject to the following conditions:

- a. The top twenty (20) percent of the wall shall have variations in height at regular intervals and it shall be consistent with the architectural style of the building; or*
- b. All wall surfaces above twenty-four (24) inches measured from grade shall have a maximum opacity of fifty (50) percent; or*
- c. No ornamental walls and fences shall have a continuous distance on the same plane of greater than ten (10) feet and planes shall be separated by a minimum of three (3) feet. Areas between the plane offset shall be landscaped.*

The Planning and Zoning Board has discovered that although the code provisions require variations in the horizontal planes of walls and fences, the vertical height permitted is excessive. This has lead to the Board approving walls and fences that it considers to be too high and resulting in a "walled off" community.

The Planning and Zoning Board reviewed this Ordinance at the December 18, 2008 Commission meeting where it was unanimously recommended for approval to the Town Commission. The Commission heard this item at their January 13, 2009 meeting where there was much discussion on the corner lots. Therefore, the Commission asked for the item to be reevaluated by the Planning and Zoning Board. A joint meeting was held on January 29, 2009 between the Commission and the Planning and Zoning Board to help craft the ordinance. Based on the comments from the participants at the joint meeting, the draft ordinance was revised. The revised ordinance was heard at the February 26, 2009 Planning and Zoning Board meeting where it was unanimously recommended for approval to the Town Commission.

Analysis: The Planning and Zoning Board is proposing an Ordinance that amends **Section 90.56 Fences, Walls and Hedges** of the zoning code. The proposed Ordinance does not amend any section of the Zoning Code pertaining to fences and walls for the rear and side yards, nor are any changes proposed to heights or locations of hedges. The proposed

Ordinance limits the height and opacity of fences and walls in the front and corner yards. The proposed regulations are as follows:

90.56.3 Ornamental fences or walls placed within a front yard or secondary frontage/corner yard are limited to function as spatial locators and shall not be substantial in appearance and shall adhere to height and opacity limitations as set forth in Table 90.56.4:

90.56.4 Front Yard and Corner Yard Ornamental Fences and Walls - Table

Lot Frontage	Maximum Height (Feet)	Maximum Opacity (percent)
<u>Less than or equal to 50 ft in width</u>	<u>3 ½ FT</u>	<u>All wall and fence surfaces above two (2) feet measured from grade shall maintain a maximum opacity of fifty (50) percent</u>
<u>Wider than 50 ft and less than 100 ft</u>	<u>3 ½ FT + ½ FT per 10 feet of lot width exceeding 50 feet, maximum 5 FT</u>	
<u>Wider than or equal to 100 ft</u>	<u>3 ½ FT + ½ FT per 10 feet of lot width exceeding 50 feet, maximum 6 FT</u>	
<u>Secondary frontage (Corner only)</u>	<u>Shall adhere to the height and opacity limitations for corresponding lot frontage</u>	

90.56.5 Modification of secondary frontage ornamental fence regulations.

1. An ornamental fence that has a maximum opacity of 100% and a maximum height of five (5) feet, as measured from grade, may project into or enclose up to fifty (50%) percent of the rear portion of the primary corner yard provided that the fence shall be placed at least ten (10) feet from the right of way line or the fence shall be aligned with the wall plane of the subject home.

2. Section 90.56.4 (Modification of secondary frontage ornamental fence regulations) shall not be applied to ornamental walls, which shall adhere to the height and opacity limitations for the corresponding lot frontage.

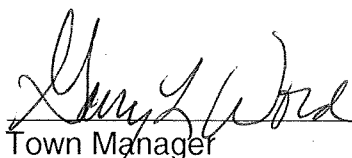
Budget Impact: Planning Staff's time was funded under the general services contract between the Town and CGA. Therefore the Town did not incur an additional budget impact for CGA's time.

Staff Impact: N/A

Recommendation It is recommended that the Surfside Town Commission adopt the attached Ordinance, amending section 90.56 of the Town of Surfside Zoning Code.



Department Head


Town Manager

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN COMMISSION OF
THE TOWN OF SURFSIDE, FLORIDA AMENDING
CHAPTER 90 "ZONING"; ARTICLE V "DESIGN
STANDARDS"; SECTION 90-56 "FENCES, WALLS
AND HEDGES"; PROVIDING FOR
SEVERABILITY; PROVIDING FOR INCLUSION IN
THE CODE; PROVIDING FOR CONFLICTS; AND
PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Town Commission (the "Commission") recognizes the need to regulate fences, walls and hedges for the health, safety and welfare of the Town; and

WHEREAS, the Commission has attempted to create regulations to address the specific needs of the this unique community and continues to amend these regulations to address the placement of fences, walls and hedges as they may best suit the needs of the community; and

WHEREAS, the Planning and Zoning Board as the local planning agency for the Town held its hearing on the proposed amendments to the fence, walls and hedges regulations on December 18, 2008 with due public notice and input; and

WHEREAS, the Town Commission held its first public hearing on March 10, 2009, having complied with the notice requirements required by Florida Statutes; and

WHEREAS, the Town Commission shall have conducted a second duly noticed public hearing on these regulations as required by law on April 14 , 2009.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE TOWN
COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:**

Section 1. Code Amended. The Town Code is hereby amended by amending Section 90-56 "Fences, walls and hedges" included in Chapter 90 "Zoning," Article V "Design Standards" which shall read as follows:

Sec. 90.56

Fences, walls and hedges

90.56.1

An ornamental fence or wall not more than six (6) feet in height, as measured from grade ~~ground~~ ~~of road~~, may project into or enclose ~~any~~ yard, except as otherwise provided herein ~~an interior side or rear yard only~~. Notwithstanding anything to the contrary elsewhere in the code, for purposes of this section, grade is defined as the point of the ground immediately below the location of the fence or wall.

90.56.3~~2~~

An ornamental fence or wall may be placed within the front yard or primary corner yard if granted approval by the Design Review Board.

90.56.3

Ornamental fences or walls placed within a front yard or secondary frontage/corner yard are limited to function as spatial locators and shall not be substantial in appearance and shall adhere to height and opacity limitations as set forth in Table 90.56.4:

90.56.4

Front Yard and Corner Yard Ornamental Fences and Walls - Table

Lot Frontage	Maximum Height (Feet)	Maximum Opacity (percent)
<u>Less than or equal to 50 ft in width</u>	<u>3 ½ FT</u>	<u>All wall and fence surfaces above two (2) feet measured from grade shall maintain a maximum opacity of fifty (50) percent</u>
<u>Wider than 50 ft and less than 100 ft</u>	<u>3 ½ FT + ½ FT per 10 feet of lot width exceeding 50 feet, maximum 5 FT</u>	
<u>Wider than or equal to 100 ft</u>	<u>3 ½ FT + ½ FT per 10 feet of lot width exceeding 50 feet, maximum 6 FT</u>	
<u>Secondary frontage (Corner only)</u>	<u>Shall adhere to the height and opacity limitations for corresponding lot frontage</u>	

90.56.5

Modification of secondary frontage ornamental fence regulations.

1. An ornamental fence that has a maximum opacity of 100% and a maximum height of five (5) feet, as measured from grade, may project into or enclose up to fifty (50%) percent of the rear portion of the primary corner yard provided that the fence shall be placed at least ten (10) feet from the right of way line or the fence shall be aligned with the wall plane of the subject home.

2. Section 90.56.4 (Modification of secondary frontage ornamental fence regulations) shall not be applied to ornamental walls, which shall adhere to the height and opacity limitations for the corresponding lot frontage.

90.56.6

When being installed as a safety feature for a swimming pool in a front or primary corner yard, an ornamental fence or wall shall be permitted at a maximum of four (4) feet in height. The applicant shall demonstrate

¹ Proposed additions to existing town code text are indicated by underline; proposed deletions from existing town Code text are indicated by ~~strikethrough~~.

evidence relative to this hardship.

- 90.56.27 The height of such ornamental fence or wall shall be measured from grade. ~~the elevation of the crown of the road upon the street serving the lot or building site. A berm or retaining wall shall not be created with the purpose of increasing the grade such that an ornamental wall or fence height exceeds the maximum height permitted by this Code.~~
- 90.56.4 ~~Ornamental walls and fences placed within the front yard or side corner yard shall be subject to the following:~~
- ~~a. The top twenty (20) percent of the wall shall have variations in height at regular intervals and it shall be consistent with the architectural style of the building; or~~
 - ~~b. All wall surfaces above twenty-four (24) inches measured from grade shall maintain a maximum opacity of fifty (50) percent; or~~
 - ~~c. No ornamental walls and fences shall have a continuous distance on the same plane of greater than ten (10) feet and planes shall be separated by a minimum of three (3) feet. Areas between the plane offset shall be landscaped.~~
- 90.56.58 In order to prevent water ponding at the base of ornamental walls, the installation of weep holes or other similar drainage features shall be required. The number and spacing shall be determined per lot per review.
- 90.56.69 Hedges shall be no more than four (4) feet in height in the front yard and side corner yards and ten (10) feet in height in the rear and interior side yards. Hedges may be higher if granted approval by the Design Review Board, on a case-by-case basis.
- 90.56.710 Under no circumstances is any fence, wall or hedge to be located on a corner lot in such a way as to conflict with the requirements of Section 90-52 (Required Clearances) or fire codes, including concealment of fire hydrants.
- 90.56.811 No fence, wall or hedge maybe placed within the public right-of-way except that landscaped islands surrounded by circular driveways on lots no more than one hundred and fifteen (115) feet in width shall be permitted, provided that it is understood by the property owner that the Town does not waive its right to demand removal without notice as deemed necessary within the Town's discretion and the Town shall not be liable for any damages arising from such removal. Property owner shall install or plant such materials at own risk. All improvements, other than groundcovers, as defined in the landscape section, shall be placed on private property.
- 90.56.912 Fences and walls shall be constructed so that the finished side shall face out or away from the property upon which it is constructed, and all support posts and the unfinished side shall be on the inside facing the property upon which said fence or wall is constructed. All masonry fences or walls shall be constructed so as to have a finished surface, including concrete block walls which shall have a plastered finish on all sides above ground level. In the event that a wood fence is constructed against a significant obstacle on the adjoining property, such as a hedge or another fence, that line of fence against the obstacle may be constructed with posts on the outside of the fence provided that the horizontal rails are at

least fifty (50) percent covered by boards on the side facing away from the property on which the fence is constructed.

90.56.4013 It shall be a violation under this Article for any person to erect or maintain a structure to serve as a fence in manner that endangers the health, safety, and welfare of the public as described in this Section and as determined by the Town Manager or designee.

90.56.4414 The following fencing material shall be prohibited:

- a. Chain-link and other wire fencing
- b. Loosely attached masonry products, such as concrete block, bricks or other similar products not bonded together by mortar or comparable adhesive.

90.56.4215 No grandfathering of chain-link fences shall be permitted in the front yard or in the corner side yard. Grandfathering of chain-link fences shall be permitted in interior side yards or rear yards.

90.56.4316 In all districts, the owner or his agent, shall be responsible for the maintenance, in perpetuity, of all landscaping material in good condition so as to present a healthy, neat and orderly appearance and clear of weeds, refuse and debris. Landscaping material shall be trimmed and maintained so as to meet all site distance requirements. Hedges planted along property lines shall be maintained and neatly trimmed to prevent growth extended across the property lone or otherwise encroaching on an adjacent property. In the event of any discrepancy as to whether healthy, neat and orderly appearance is being maintained shall be determined by the Town Manager or designee.

90.56.4417 Temporary construction fences shall be permitted. The maximum height of such fence shall be six (6) feet as measured from crown of road. The fence shall be constructed of wood or chain-link and shall be concealed with a windscreen.

Section 2. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 3. Inclusion in the Code. It is the intention of the Commission, and it is hereby ordained that this Ordinance shall become and be made a part of the Town of Surfside Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4. Conflicts. Any and all Ordinances and Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed.

Section 5. Effective Date. This ordinance shall become effective in ten (10) days after second reading.

PASSED and **ADOPTED** on First Reading the ____ day of _____, 2009.


PASSED and **ADOPTED** on Second Reading this ____ day of _____, 2009.

Charles W. Burkett, Mayor

Attest:

Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



Lynn M. Dannheisser, Town Attorney

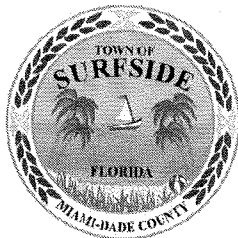
On Second Reading Moved by: _____

On Second Reading Seconded by: _____

Vote:

Mayor Burkett	yes_____	no_____
Vice Mayor Imberman	yes_____	no_____
Commissioner Calderon	yes_____	no_____
Commissioner Levine	yes_____	no_____
Commissioner Weinberg	yes_____	no_____

Ordinance No. _____



TOWN OF SURFSIDE
Office of the Town Attorney

MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser
Town Attorney

Telephone: 305 861-4863
Facsimile: 305 861-1302
E-mail: ldannheisser@townofsurfsidefl.gov

MEMORANDUM

TO: Town Commission

FROM: Lynn M. Dannheisser, Town Attorney

cc: Gary Word, Town Manager

DATE: March 5, 2009

SUBJECT: Vacant Lots Ordinance

Some of our residents have been complaining about the abandoned condition of unimproved vacant lots in the Town of Surfside, particularly since the advent of this economic recession and changing real estate market. This ordinance obligates the property owner to secure and maintain the property in good condition as well as to present a landscape plan to create a park-like setting with landscaping or at minimum, grass or other ground cover, and fencing that must comply with our Fences, Walls and Hedges" ordinance. Failure to comply will result in civil penalties per our code enforcement ordinance.

Please understand, however, that code enforcement, if it becomes necessary will only result in the Town's ability to fine and ultimately lien the property. While the Town would also have the ability to correct the condition on its own, it would then risk having to bear the costs of maintenance without the necessarily the guarantee of collection in any near future.

ORDINANCE NO. 09- _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE III “PROPERTY MAINTENANCE STANDARDS” OF CHAPTER 14 “BUILDING AND BUILDING REGULATIONS” TO ESTABLISH SECTION 14-55 “MAINTENANCE OF VACANT LOTS”; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the economic recession and changing real estate markets has resulted in a number of vacant lots left unimproved and unmaintained;

WHEREAS, the Town Commission wishes all properties to be kept free of any debris and maintained in an aesthetically pleasing manner and specifically with regard to the issue of vacant lots the Commission wishes to specify the manner in which the lots must be maintained;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:

Section 1. **Recitals.** The above Recitals are true and correct and are incorporated herein by this reference:

Section 2. **ARTICLE III. “PROPERTY MAINTENANCE STANDARDS”** of the Code is hereby amended to add Section 14-55 which shall read as follows: ¹

Section 14.55 Vacant Lots or Buildings

The owner of a vacant lot or building will take such steps and perform such acts as may be required of him or her from time to time to ensure that the lot or building and its adjoining yard remain safe and secure and do not present a hazard to the adjoining property or the public. Owners will be responsible for maintaining their lots and buildings so that they do not become an unoccupied hazard and so that they do not become a real or aesthetic nuisance to their adjoining property owners.

A. Vacant lot. The owner protects and maintains the lot as follows:

^{1/} Proposed additions to existing Town Code text are indicated by underline; proposed deletions from existing Town Code text are indicated by ~~strikethrough~~.

- (1) The owner will not permit garbage and solid waste to accumulate on the property.
- (2) Unsafe buildings and structures shall be demolished.
- (3) Junked materials, construction equipment, or construction materials will not be stored on the lot.
- (4) The owner shall maintain the lot in a park-like setting in accordance with a landscape plan approved by the City Manager or his/her designee. At a minimum, the park-like setting must be grass or appropriate ground-cover encompassing the entire lot.
- (5) The owner will maintain plants and landscaping on the lot in accordance with this chapter. The lots shall be trimmed and mowed, with the height of grass and weeds being no more than eight inches.
- (6) Fencing will be required and shall comply with the Town's Fences Walls and Hedges Ordinance (Section 90.56) as may be amended from time to time.

B. Failure to comply with any provisions set forth in this ordinance shall subject an owner, his successors or assigns, to the civil penalties set forth in Chapter 15. Code Enforcement (Section 15-11) of the Code of the Town of Surfside.

C. The town manager is hereby authorized and directed to employ necessary personnel and equipment to enter upon vacant lots whose owner or occupant fails to maintain the property in accordance with this Ordinance and to maintain same.

- (1) In order to defray the cost to the town of maintaining such property, there is hereby levied and assessed against each owner or occupant who fails to maintain same, the costs resulting from gaining compliance with this Ordinance including the placement of fencing, landscaping, and continuous maintenance.
- (2) All charges becoming due and payable under this subsection constitute, and are hereby imposed as liens against the real property, and, upon becoming delinquent April 1 of the following year, until fully paid and discharged, shall remain liens, equal in rank and dignity with the ad valorem taxes of the town, and may be satisfied by the sale of certificates in the same manner as is provided for the sale of certificates on delinquent ad valorem taxes. Such lien shall be superior in rank and dignity to other liens, encumbrances, titles and claims in, to or against the real property involved.

Section 3. Transition Provision. Property owners shall be given a period of ninety (90) days from second reading within which to comply with this Ordinance unless otherwise extended in writing by the Town Manager. The Town Manager or his designee shall send out courtesy letters informing property owners of this obligation.

Section 4. Conflict. To the extent of any conflict between the Ordinance and the Charter of the Town, the provision of the Charter shall control. To the extent of any conflict between Mason's Rules and the Rules of this Ordinance, this Ordinance shall control.

Section 5. Severability. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 6. Inclusion in Code. It is the intention of the Town Commissioners, and it is hereby ordained that the provisions of this ordinance, shall become and be made a part of the Code of the Town of Surfside, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 7. Effective Date. This ordinance shall become effective ten (10) days after adoption on second reading.

PASSED AND ADOPTED on first reading this 10th day of March, 2009.

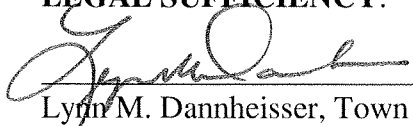
PASSED AND ADOPTED on second reading this ____ day of ____, 2009.

CHARLES W. BURKETT, Mayor

Attest:

Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Lynn M. Dannheisser, Town Attorney

On Second Reading Moved by: _____

On Second Reading Seconded by: _____

Vote:

Mayor Burkett	yes _____	no _____
Vice Mayor Imberman	yes _____	no _____
Commissioner Calderon	yes _____	no _____
Commissioner Levine	yes _____	no _____
Commissioner Weinberg	yes _____	no _____

Ordinance No. 09 _____

RESOLUTION NO. 2009- ____**A RESOLUTION OF THE TOWN COMMISSION
OF THE TOWN OF SURFSIDE, FLORIDA
SUPPORTING AMENDMENTS TO THE FLORIDA
STATUTES TO INCREASE MORTGAGE
HOLDERS' RESPONSIBILITY FOR
DELINQUENT CONDOMINIUM, COOPERATIVE
AND HOMEOWNER ASSOCIATIONS FEES,
REGULAR ASSESSMENTS AND SPECIAL
ASSESSMENTS ON UNITS IN FORECLOSURE
AND ON FORECLOSED UNITS; AND PROVIDING
FOR AN EFFECTIVE DATE.**

WHEREAS, due to current economic conditions which include a housing market crisis, South Florida, in particular, is experiencing a significant increase in foreclosure suits filed; and

WHEREAS, under present Florida law, mortgage holders are only responsible for unpaid condominium association fees that are the lesser of 1% of the original mortgage amount or six months of unpaid maintenance fees and regular assessments at the time of foreclosure; and

WHEREAS, under the foregoing formula, condominium association fees often accumulate in excess of what the mortgage holder is responsible for resulting in such fees becoming the responsibility of the remaining association members who must pay, in many cases, exorbitant special assessments to cover the maintenance expenses and all special assessments of the building, while units in foreclosure proceedings and foreclosed units continue to benefit at no additional expense to the mortgage holder; and

WHEREAS, in order to provide a disincentive for mortgage lenders to delay foreclosure actions in order to avoid the payment of escalating condominium fees, and to fairly place responsibility on the party that has the most to benefit from the continued

receipt of maintenance services on units in foreclosure proceedings and foreclosed units, the Florida Statutes should be amended.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION
OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:**

Section 1. The above and foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. The Town Commission supports amendments to the Florida Statutes to increase mortgage holders' responsibility for delinquent condominium, cooperative, and homeowner associations' fees, regular assessments and special assessments on units in foreclosure and on foreclosed units.

Section 3. The Resolution shall become effective immediately upon its adoption.

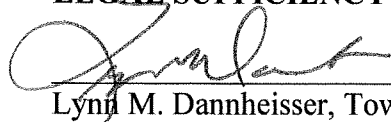
PASSED and ADOPTED on this ____ day of _____, 2009

Charles W. Burkett, Mayor

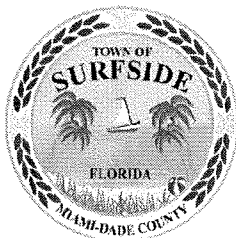
Attest:

Town Clerk

**APPROVED AND TO FORM AND
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:**



Lynn M. Dannheisser, Town Attorney



TOWN OF SURFSIDE
Office of the Town Attorney

MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009


Lynn M. Dannheisser
Town Attorney

Telephone: 305 861-4863
Facsimile: 305 861-1302
E-mail: ldannheisser@townofsurfsidefl.gov

MEMORANDUM

TO: Town Commission

FROM: Lynn M. Dannheisser, Town Attorney

cc: Gary Word, Town Manager 

DATE: March 5, 2009

SUBJECT: Resolution Authorizing Purchase of Office Furniture for Town Attorney Office

As promised, I am bringing for your final approval the authorization to purchase office furnishings. The total amount is for \$16,134 although only \$15,000 is being requested to move from the general reserves. (The balance will come out of the already authorized general operating account.) This amount includes all desks, chairs, lateral file cabinets, conference room table, credenza and blinds. It is an excellent government contract we secured by piggybacking off other state and local contracts.

Incidentally, you asked me to ensure this furniture was of equivalent quality or expense (and not greater than) furnishings in the Town Manager's office. I brought the representative from JC White Office Furniture to that office and he examined the Manager's furniture. He is familiar with the manufacturer and he assured me that the cost of the furnishings for my entire suite (including the conference room) was the equivalent of the cost of office furniture originally secured for the Manager's office alone.

RESOLUTION No. _____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING THE PURCHASE OF OFFICE FURNITURE AND EXECUTE A LEASE OF A COLOR COPIER/PRINTER/FAX FOR THE OFFICE OF THE TOWN ATTORNEY; AUTHORIZING THE TOWN MANAGER TO EXECUTE ALL PURCHASE ORDERS OR OTHER REQUIRED DOCUMENTATION; AUTHORIZING THE REAPPROPRIATION OF FUND BALANCE (RESERVES) TO THE GENERAL FUND; AMENDING THE TOWN'S BUDGET FOR FISCAL YEAR 2008-2009; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town has built out office space formerly used as a storage space within the Town Hall on the second floor for the Office of the Town Attorney.

WHEREAS, the Office of the Town Attorney must now be furnished and equipped including the execution a lease for a color copier/printer/fax to make ready the office for operational use, which estimate of said furniture and equipment is attached as (Attachment "A").

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA,

Section 1. Recitals. That the above and foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Authorization to Purchase. The Town Commission hereby authorizes the purchase of the aforementioned office furniture and lease of a color copier/printer as follows:

Office Furnishings	\$14, 850.96
Blinds	\$1284.00
Color copier/printer/fax	\$174.03/per month on 60 month municipal lease

The Town Manager is authorized to execute any required purchase orders or other required documentation to make these purchases.

Section 3. **Budget Amendment.** In accordance with Section 62 of the Town Charter and the budget adopted as Exhibit "A" of Resolution No 2008-1860 is amended by re-appropriating the amount of **\$15,000** from the GENERAL Funds Fund Balance Account No. 001-0000-392-000 to General Fund Legal Department Machinery and Equipment: 001-1500-514-6410. The balance will be taken from the General Legal Fund Operating Account.

Section 4. **Implementation.** The Town Manager and the Town Clerk are hereby authorized to take any and all action necessary to implement this Resolution and Agreement in accordance with the terms, conditions and purposes of this Resolution and Agreement.

Section 5. **Effective Date.** This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 10th day of March, 2009.

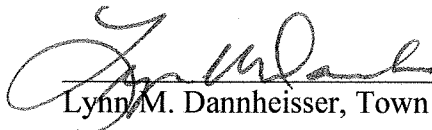
Resolution No. _____

Charles W. Burkett, Mayor

ATTEST:

Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Lynn M. Dannheisser, Town Attorney

Resolution No. _____



CITY OF SURFSIDE ATTORNEY 2-17-2009
CITY OF SURFSIDE
CITY ATTY.sif

03-02-2009
15:07:40

Rec#	Mfg	Qty	Part#	Description	Cust\$	Ext Cust\$
Tag1						
Tag2				Options		
Tag3				Option Description		
1	PI1	1	P-RT4242T	Revival Round Table/42Diax29H	676.00	676.00
ATTORNEY				.VV LC LL .DB .GN .AL Veneer Top/Chassis Light Cherry Low Luster Double Bead No Grommets Alloy		
2	PI1	1	P-RM1654UB	Revolve Uppr Bkcs/54Wx16Dx42H	746.00	746.00
ATTORNEY				.VV LC .DW Veneer Top/Chassis Light Cherry Wood Door Set		
3	PI1	1	P-RM1618UL	Revolve Uppr Bkcs/18Wx16Dx42H	399.20	399.20
ATTORNEY				.VV LC .DW Veneer Top/Chassis Light Cherry Wood Door Set		
4	PI1	1	P-RF2575LF	Revival Sgle Ped LF Cred L/72Wx24Dx29H	716.80	716.80
ATTORNEY				.VV LC LL .DB .BD MC .OMT Veneer Top/Chassis Light Cherry Low Luster Double Bead Bead (Revolve 5/6) Matte Chrome OMT Core to Ord key Alike		
5	PI1	1	P-RM2472VC	Revolve Video Cab/36Wx24Dx71-3/8H	1389.60	1389.60
ATTORNEY				.VV LC .BD MC .OMT Veneer Top/Chassis Light Cherry Bead (Revolve 5/6) Matte Chrome OMT Core to Ord key Alike		



CITY OF SURFSIDE ATTORNEY 2-17-2009
 CITY OF SURFSIDE
 CITY ATTY.sif

03-02-2009
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Rec#	Mfg	Qty	Part#	Description	Cust\$	Ext Cust\$
Tag1						
Tag2				Options		
Tag3				Option Description		
6	PI1	1	P-RM2436EB	Revolve Exec Bdg Tp/36Wx24Dx29H	217.60	217.60
ATTORNEY				.V LC LL .DB Veneer Top Light Cherry Low Luster Double Bead		
7	PI1	1	P-RM4873RC	Revolve Sgl Ped CRT Dsk R Bw Tp-NR/72Wx48Dx29H	1298.80	1298.80
ATTORNEY				.VV LC LL .DB .BD MC .OMT Veneer Top/Chassis Light Cherry Low Luster Double Bead Bead (Revolve 5/6) Matte Chrome OMT Core to Ord key Alike		
8	PA4	3	P-PCMC	Paoli Lock Core Matte Chrome	4.80	14.40
ATTORNEY				.X110T Key Number 110T		
9	HUM	1	2G 900 11	2G Mechanism / 900 - Std. Platform / 11 - 8" Swivel Mouse	170.00	170.00
ATTORNEY				R G Right 19" Gel w/ Synt. Leather		
10	PA4	1	P-RF2470BU	Buffet Cred/72Wx24Dx36H	1238.00	1238.00
CONFERENCE				.VV LC LL .DB .BD MC Veneer Top/Chassis Light Cherry Low Luster Double Bead Bead (Revolve 5/6) Matte Chrome		
11	PC6	2	P-XO2020DB	Round Drum Base / 20W x 28H	525.60	1051.20
CONFERENCE				.V LC .DN Veneer Chassis Light Cherry Door No		



CITY OF SURFSIDE ATTORNEY 2-17-2009
CITY OF SURFSIDE
CITY ATTY.sif

03-02-2009
 15:07:40

Rec#	Mfg	Qty	Part#	Description	Cust\$	Ext Cust\$
Tag1						
Tag2				Options		
Tag3				Option Description		
12	PC6	1	P-RT4896RT	Revival Rctrck Tbl Top/96Wx48Dx1-3/16H	1087.20	1087.20
CONFERENCE				.V LC LL .DB .GN Veneer Top Light Cherry Low Luster Double Bead No Grommets		
13	HSG	8	2092	Managerial Mid-back, Swivel, Tilt Pneumatic, Arms	200.22	1601.76
CONFERENCE				.S \$(L) .SR 11 .T CASTER: Soft GRADE: Leather UPHOLSEY UPH: Leather COLOR: Black 11 FRAME: Black		
14	HSC	4	9310	Lock Kit for Metal Overfile	25.08	100.32
FILE				.X Color: STANDARD		
15	HSC	3	9318	Metal Overfile w/Doors & Shelf36W x 18D x 27-7/8H	267.94	803.82
FILE				.E PAINT: Taupe		
16	HSC	1	9317	Metal Overfile w/Doors & Shelf30W x 18D x 27-7/8H	249.13	249.13
FILE				.E PAINT: Taupe		
17	HSC	3	685L	600 Series Lateral File 5-drawer w/Rollout S	588.54	1765.62
FILE				.E PAINT: Taupe		
18	HSC	1	675L	600 Series Lateral File 4-drawer w/Rollout Shelf 30W	550.51	550.51
FILE				.E PAINT: Taupe		



CITY OF SURFSIDE ATTORNEY 2-17-2009
CITY OF SURFSIDE
CITY ATTY.sif

03-02-2009
15:07:40

Rec#	Mfg	Qty	Part#	Description	Cust\$	Ext Cust\$
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Tag2				Options		
Tag3				Option Description		
19	JCW	1	LABOR	DELIVERY AND INSTALLATION	775.00	775.00

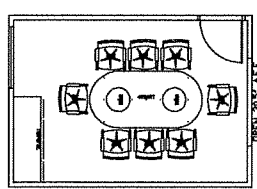
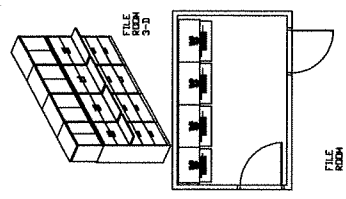
Total Cust: \$14,850.96

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	RECEPTION	1	SQ. FT.	100.00	100.00
2	EXISTING	1	SQ. FT.	50.00	50.00
3	RECEPTION	1	SQ. FT.	100.00	100.00
4	EXISTING	1	SQ. FT.	50.00	50.00
5	RECEPTION	1	SQ. FT.	100.00	100.00
6	EXISTING	1	SQ. FT.	50.00	50.00
7	RECEPTION	1	SQ. FT.	100.00	100.00
8	EXISTING	1	SQ. FT.	50.00	50.00
9	RECEPTION	1	SQ. FT.	100.00	100.00
10	EXISTING	1	SQ. FT.	50.00	50.00
11	RECEPTION	1	SQ. FT.	100.00	100.00
12	EXISTING	1	SQ. FT.	50.00	50.00
13	RECEPTION	1	SQ. FT.	100.00	100.00
14	EXISTING	1	SQ. FT.	50.00	50.00
15	RECEPTION	1	SQ. FT.	100.00	100.00
16	EXISTING	1	SQ. FT.	50.00	50.00
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18	EXISTING	1	SQ. FT.	50.00	50.00
19	RECEPTION	1	SQ. FT.	100.00	100.00
20	EXISTING	1	SQ. FT.	50.00	50.00
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31	RECEPTION	1	SQ. FT.	100.00	100.00
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43	RECEPTION	1	SQ. FT.	100.00	100.00
44	EXISTING	1	SQ. FT.	50.00	50.00
45	RECEPTION	1	SQ. FT.	100.00	100.00
46	EXISTING	1	SQ. FT.	50.00	50.00
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48	EXISTING	1	SQ. FT.	50.00	50.00
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50	EXISTING	1	SQ. FT.	50.00	50.00

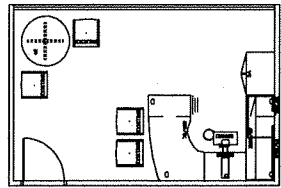
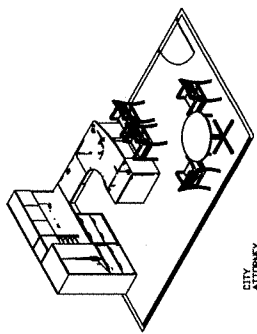
CITY OF SURFSIDE
CITY ATTORNEY PLAN

J.C. WHITE
QUALITY OFFICE FURNITURE
1000 N. W. 10th Ave.
Fort Lauderdale, FL 33304
Phone: (305) 461-1111
Fax: (305) 461-1112
www.jcwhite.com

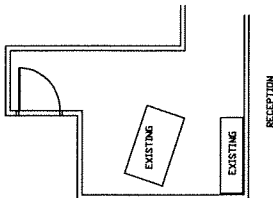
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DATE: 10/17/97
DRAWN: 10/17/97
SCALE: 1/8" = 1'-0"

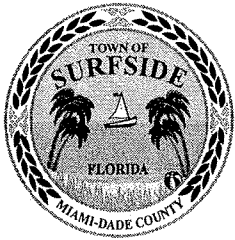


NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	CONFERENCE ROOM	1	SQ. FT.	100.00	100.00
2	OPEN 30' x 27'	1	SQ. FT.	50.00	50.00
3	CONFERENCE ROOM	1	SQ. FT.	100.00	100.00
4	OPEN 30' x 27'	1	SQ. FT.	50.00	50.00
5	CONFERENCE ROOM	1	SQ. FT.	100.00	100.00
6	OPEN 30' x 27'	1	SQ. FT.	50.00	50.00
7	CONFERENCE ROOM	1	SQ. FT.	100.00	100.00
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15	CONFERENCE ROOM	1	SQ. FT.	100.00	100.00
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17	CONFERENCE ROOM	1	SQ. FT.	100.00	100.00
18	OPEN 30' x 27'	1	SQ. FT.	50.00	50.00
19	CONFERENCE ROOM	1	SQ. FT.	100.00	100.00
20	OPEN 30' x 27'	1	SQ. FT.	50.00	50.00
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46	OPEN 30' x 27'	1	SQ. FT.	50.00	50.00
47	CONFERENCE ROOM	1	SQ. FT.	100.00	100.00
48	OPEN 30' x 27'	1	SQ. FT.	50.00	50.00
49	CONFERENCE ROOM	1	SQ. FT.	100.00	100.00
50	OPEN 30' x 27'	1	SQ. FT.	50.00	50.00



FLOOR PLAN
THIS PLAN IS NOT TO BE USED FOR ANY OTHER PURPOSES THAN THE ONE FOR WHICH IT WAS PREPARED. IT IS THE RESPONSIBILITY OF THE USER TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.





PURCHASE ORDER
TOWN OF SURFSIDE
9293 HARDING AVENUE • SURFSIDE, FL 33154
TELEPHONE: 305.861.4863
FAX: 305.861.1302

No 9690

This Number Must Be
Shown on Delivery Ticket,
Invoice and Statement.

Commercial Interior Contractors, Corp.
2500 NW 39th Street, Suite 100
Miami, Florida 33142

Date 3/2/09

SHIP VIA

F.O.B.

TERMS:

QUANTITY	DESCRIPTION AND SPECIFICATIONS		UNIT PRICE	TOTAL
Roller Shades 1	51 5/8" x 83 1/2"	Color 350A Linen		202.50
1	83 1/2" x 83 1/2"	" "		276.00
1	52" x 83 1/2"	" "		202.50
1	30" x 83 1/2"	" "		174.00
1	73" x 49"	DARK COLOR SHADE		204.00
	ROLLER SHADES INSTALLATION			225.00
	TOTAL PROJECT COST			\$1,284.00
	DEPT. _____			
	ACCT. # _____			
	I CERTIFY THERE ARE FUNDS IN THE ABOVE ACCOUNT.			
	_____ DEPARTMENT HEAD			

IMPORTANT: Mail Invoice showing Purchase Order number to Accounting Department,
Town Hall, immediately upon delivery of goods (Statement monthly).

Town Manager

Proposals Summary for the City of Surfside Legal Department
(Government Contract Pricing)

Ricoh C2550 ~~Color~~ Copier, Scanner, Printer, & Fax

Includes ADF, Duplexing, Reduction, Enlargement, Cabinet, & Finisher (\$600.00 one time Credit, if Finisher is not needed).

Cost per month on a 60 month municipal lease-----\$174.03

Ricoh MP2500 Copier, Scanner, Printer, & Fax

Includes ADF, Duplexing, Reduction, Enlargement, Cabinet, & Finisher (\$600.00 one time Credit, if Finisher is not needed).

Cost per month on a 60 month municipal lease-----\$146.65

Both machines include all parts, service, labor & supplies (except paper & staples) for 1,000 images per month. Overages will bill at \$0.012 (1.2 cents) per image.

If you have any questions, please call Norman Wartman at (305) 469-3660.



TOWN OF SURFSIDE

9293 Harding Avenue
Municipal Building
9293 Harding Avenue
Surfside, Florida 33154
(305) 861-4863
(305) 861-1302

TAB 10

Charles W. Burkett
Mayor

Marc Imberman
Vice Mayor

Howard Weinberg
Commissioner

Steven Levine, ESQ.
Commissioner

Elizabeth Calderon, ESQ.
Commissioner

Gary Word
Town Manager

TOWN OF SURFSIDE PROJECTS PROGRESS REPORT March 2009

1. **Community Center** - The project managers for the Community Center along with the Town Attorney and Building Official met with the five Contractors who were selected as "most qualified". The selected Contractors were Weitz Construction, Stiles Construction, N&J Construction, West Construction and KVC Constructors. The project managers started of giving the Contractors a brief the history of the Community project to date. The Contractors were supplied with a set of construction plans and specifications for the complete three story building as originally designed so they may begin the work necessary to bid the project. There was a brief question and answer period which was quite productive.

There will be an additional meeting the week of March 1st at which the first addendum will be supplied to the contractors. This will include the three story design with the library area as a shell, a two story design and then several components which the contractors will bid as "deduct alternates Center Project to date. Several of the Contractors have already sent to the Project Managers request for information so they are moving right along. There will be an additional question and answer period available to the Contractors at that time. The project management team, the Architect, the Town Manager and Town Attorney will be available to answer those questions.

2. **Beach Walk** - The Contractor brought in an additional four loads of crushed shell and sand material and has remediated the areas of the hard pack emergency roadway over a two day period. These areas continue to be monitored and it is expected that no further work will be necessary until the rainy season begins. At that time we will re-evaluate the need to take further action.

3. **Office Improvement** - The office improvement on the second floor which has recently been undertaken to create additional office and storage space for staff is still underway. The rough wall inspections have been completed and the drywall has been hung and finished. In addition the ceiling rough inspections for the fire alarm, electric and air conditioning have also been completed including the installation of a new fire damper that was required per the code and for life safety reasons. The new ceiling grid is now being installed and the painting of walls should be beginning this week.

4. **Planning and Community Development** - A site plan submittal for a new hotel at the Best Western site was reviewed by staff at the Development Review Group meeting on February 5, 2009. At this meeting numerous comments were provided to the applicant to revise the plans to meet code revisions. The applicant is working to revise the plans and staff is awaiting a resubmittal. Based on when the plans are resubmitted, the item will be reviewed a second time by staff and the Development Review Group and then be scheduled for a Planning and Zoning hearing and subsequently a Town Commission hearing. The McMansion ordinance, which is intended to prevent large box homes, and an ordinance to further regulate fences are on this agenda. 9300 Collins Avenue has submitted plans to the Town to renovate the apartment building into a 26 room hotel. The item was heard at the February 26, 2009 DRB meeting.

5. **Web Site, Information Technology, TV Broadcasts** - Atlantic Broadband checking into audio distortion of broadcast meetings. Project progress report will be posted to website by the end of the March.

6. **Emergency Management** - The Town's professional staff have completed the first draft of the Comprehensive Emergency Management Plan (CEMP) for Surfside. The plan still requires multiple revisions, staff review and training, as well as conducting an exercise prior to the hurricane season. CGA also completed a FY09 Pre-Disaster Mitigation (PDM) grant application for funding to elevate the Town Hall's generator. The Town's application was successfully submitted to FEMA for funding consideration and the Town is now awaiting final notification.

7. **Public Utilities / Engineering –**

FDOT Stormwater Project

The project is on schedule and should be completed by April 20, 2009. Control panels and pumps are being installed on 94th with pavement restoration and curbing scheduled to be completed within 21 days. The pump station on 88th will require approximately 45 days to be completed; however, a bonus clause may prompt the contractor to complete the project earlier. Tony Sabbag of HDR Construction (305-256-6380) is the FDOT representative for the pump station projects.

FDEP Stormwater Project

The project status for the Town's pump stations and stormwater system is as follows:

Task 1: Surveying - The surveying of the Town for elevations and street alignments has been completed. Some spot elevations and alignment surveys are being completed for confirmation.

Task 2: Engineering Design and Permitting - ERP permit has been issued.

Task 6: Grant Administration – Required for the duration of the project.

Task 7: Education – Required for the duration of the project.

Stormwater Master Maintenance

A Stormwater Master Maintenance Plan to clean and video if necessary all of the Town's catch basins and stormwater collection system is in progress. A Town wide atlas showing each of the improvements, condition and recommendations will be needed to maintain the system on a yearly basis. Repairs and replacement program will coincide with the FDEP Stormwater project and grants will augment the CIP as adopted.

Wastewater System

The wastewater system is being improved in a multi-phase approach. In the initial phase is complete with the installation of approximately 105 manhole gaskets to reduce the amount of inflow of stormwater into the wastewater system, making it more efficient and less costly. The second phase involves cleaning and inspection, followed by the third phase, which will be the lining of many of the sanitary sewer lines and manholes to again further improve function and reduce any leaks or failures. Additional wastewater improvements, such as the sanitary sewer pump station replacements, are currently being evaluated for implementation. Costs for Slip Lining and CIPP Lining are being developed.

Miami Beach has scheduled the installation of two dedicated Sewer Meters to resolve the tri party agreement with the Town, Bal Harbor, and the Town of Surfside. More importantly, accurate readings will be result with accurate invoicing.

Water System

The Water system atlas is complete with an inventory of complaints, low pressure, rust, and other issues noted. A renovation program in alignment with budget and needs is being prepared. The design, bid, award and replacement of the aging system will be in three phases. This project was prompted by the substantial loss of water due to leaks in the system.

1. Water Main Replacement Proposals –submitted to the Town this week.
 - a. Replacement will be broken into 3 phases - south of 90th, 90th to 92nd and north of 92nd
 - b. Approximately 11,000 linear feet of pipe to be designed per phase for a total of 33,000 linear feet.

8. Building Code Services – Building permit activity has slowed everywhere, and Surfside is no exception. Approximately ten to twelve applications are being received weekly, with a like number of permits being issued. Fortunately, a number of new projects are in the pipeline. The townhouse project at 9501 Collin Avenue is the first, as the town has been notified that the foundation permit will be picked up the first week in March.

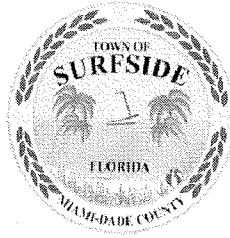
FEMA had previously determined that several homes had remodeled and/or built additions that violated FEMA/NFIP rules and regulations. Now, some of those homes would like to do additional work, further exacerbating the problem. The building official is addressing the issues, in conjunction with the town attorney and others. The matter will continue until FEMA can be satisfied that the town is actively resolving the existing situations and assuring that new ones are not being created.

9. Transportation and Traffic Engineering - Speed table designs for Byron Avenue and Abbott Avenue have been approved by Miami-Dade County Traffic. We have received price quotes for the construction cost for the minor construction associated with the speed table installation from four contractors. Renderings will be prepared to present to the Commission on March 10, 2009 for Byron and Abbott Avenues.

The Town of Surfside Stop Sign/Traffic Intrusion Analysis is approximately 80% complete. To date we have completed AM and PM peak hour field observations, traffic data review and summary, 61 Intersection approach counts, 18 intersection delay studies and analysis, 18 intersection crash reviews and summaries, 18 intersection collision diagrams, 18 intersection all-way stop warrant analysis and the Summary Report – Draft. We have finalized recommendations for traffic calming devices within the town, summarized within the draft report. Miami-Dade County is eagerly awaiting the installation of the speed tables on Byron and Abbott Avenues, and looks forward to working together with implementing future traffic calming devices within the Town. After the report is finalized and accepted by the Town of Surfside, we can meet with Fernando to prioritize the recommendations.

10. Parks - FCT staff recommended that Surfside create a Town Recreational Trail map identifying all the points of public access to Indian Creek and the Atlantic Ocean, and identify all public parks and green spaces within the Town, and all parks within a 3-mile radius; as well as connecting to the County trail. Staff is currently working with the Miami-Dade Parks and Recreation staff, and MPO to request that the trail be adopted by Miami-Dade County Commission.

11. Grants - The FY 2009 Application for the DEP Section 319 Non-point Source Management Program Grant was submitted by May 23, 2008. As part of the “green roof” application, a resolution was passed adopting nine stormwater elements into the Town’s Stormwater Master Plan. A response is being awaited.



**Town of Surfside
Commission Communication**

Agenda Date: March 10, 2009

Subject: TRAFFIC MANAGEMENT PROGRAM – INSTALLATION OF SPEED TABLES

Background: At the February 10th Commission Meeting, the Commission expressed concern about the planters that are incorporated in the installation plans of the speed tables along Abbott and Byron Avenues. They requested that the plans for the recommended speed tables be provided for their review, and Administration did so. The vendor quotations were provided in that agenda's Commission communication. (**Attachment A**)

Analysis: As part of the traffic management program, Town Engineers, Calvin, Giordano and Associates, Inc. (CGA) completed a roadway design for speed tables along Byron Avenue and Abbott Avenue. Following Miami-Dade County Traffic Engineering requirements, the roadway design was approved with associated minor construction.

As shown in the plans, the streetscape design along Abbott includes small six foot wide cushions which allow emergency vehicles (fire/ambulance) and school buses to straddle them as well as providing for a four foot bike path in both directions. On Byron, design limitations only allowed for a nine foot wide table to preserve the residential parking spaces, but the "choker/planter island" was necessary to enforce the device intent and allow for the four foot bike lane.

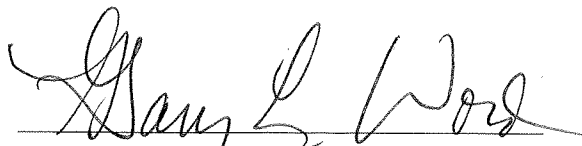
Installing a speed table the width of the roadway may not be aesthetically pleasing. Furthermore, installing the speed table to cover the width of the lanes without a choker/planter island on the extreme ends would defeat the purpose of the device. Lastly, it is Miami-Dade Traffic's experience that installing the tables across the width of the roadway is not aesthetically pleasing and residents would not be happy with the final product. In the case of the Town's installations, the tables would be nearly 32 feet wide.

Budget Impact: The total cost of this project would not exceed \$19,000.00 for the installation of speed tables and associated minor construction on Byron Avenue and Abbott Avenue.

Staff Impact: Public Works administration, field staff and CGA will perform construction engineering inspection and project management for the construction and installation.

Recommendation: It is recommended that the Surfside Town Commission approve the \$19,000 proposal by Downrite Engineering Corporation to install the speed tables and perform the associated minor construction.

Department Head



Town Manager



Town of Surfside Commission Communication

Agenda Item # 8C

Agenda Date: February 10, 2009

Subject: TRAFFIC MANAGEMENT PROGRAM – INSTALLATION OF SPEED TABLES

Background: The Town's residential and business districts have not benefited from a cohesive, well-planned traffic management program in the past two decades. Increased vehicular and pedestrian traffic has brought with it growing congestion, increased speeding, and other potentially problematic conditions. At the request of the Town Commission, the need for a city-wide traffic management program has been assessed by our Town Engineers, Calvin, Giordano and Associates, Inc. (CGA).

Analysis:

As part of the traffic management program, CGA completed a roadway design for speed tables along Byron Avenue and Abbott Avenue. Following Miami-Dade County Traffic Engineering requirements, the roadway design was approved with associated minor construction. To complete the Miami-Dade required minor construction associated with the installation of the speed tables, staff has received price quotes from four (4) general contractors for the construction cost. The quotes are summarized below:

Downrite Engineering Corp.	\$19,000 (attached)
Tenex Enterprises	\$19,900
Mecano Development	\$21,350
Kailas Contractors	\$35,000

Downrite Engineering Corporation submitted the lowest cost proposal to complete the minor construction and installation of the speed tables on both Byron Avenue and Abbott Avenue. The final result of this construction and speed table installation will be the first step in the Town's planned efforts to provide adequate signs, marking and traffic calming devices in the business and residential districts. Consequently, town residents, merchants and visitors will enjoy the benefits of a city that is safer and easier to traverse.

Budget Impact: The total cost of this project will not exceed \$19,000.00 for the installation of speed tables and associated minor construction on Byron Avenue and Abbott Avenue.

COMMISSION COMMUNICATION

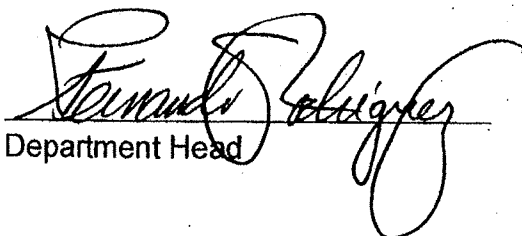
Subject: TRAFFIC MANAGEMENT PROGRAM – INSTALLATION OF SPEED TABLES

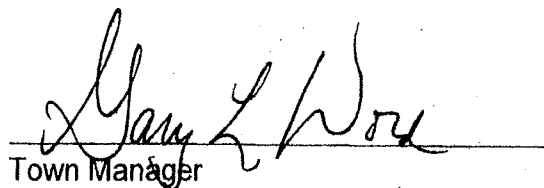
February 10, 2009

Page 2 of 2

Staff Impact: Public Works administration, field staff and CGA will perform construction engineering inspection and project management for the construction and installation.

Recommendation: It is recommended that the Surfside Town Commission approve the \$19,000 proposal by Downrite Engineering Corporation to install the speed tables and perform the associated minor construction.


Department Head


Town Manager

Downrite Engineering Corporation
 14241 SOUTHWEST 143 COURT • MIAMI, FLORIDA 33186 • PHONE: (305) 232-2340 • FAX: (305) 256-1161

PROPOSAL

PRO: DEAL SUBMITTED TO:

CALVIN-GIORDANO & ASSOCIATES / JAMES SPINKS

PHONE:

954-921-7781

DATE:

30-Jan-09

STREET:

1800 ELLER DRIVE, SUITE 600

JOB NAME:

SPPED TABLES - TOWN OF SURFSIDE

CITY, STATE, & ZIP CODE

T, LAUDERDALE, FL 33316

FAX:

954-921-8807

Page 1 of 1

SPEED TABLE:

Byron Ave. & Abbot Ave, Surfside, FL

QUANTITY	U/M	DESCRIPTION	UNIT PRICE	EXTENSION
1	LS	Remove Exist. Pavement & Dispose	\$ 250.00 / LS	\$ 250.00
15	LF	Remove Exist. Curb & Dispose	\$ 8.00 / LF	\$ 120.00
36	TN	Import Clean Fill Material	\$ 30.00 / TN	\$ 1,050.00
547	LF	6" x 18" Type 'D' Curb	\$ 10.00 / LF	\$ 5,470.00
1	LS	Install Speed Table (Byron Ave)	\$ 2,000.00 / LS	\$ 2,000.00
2	LS	Install Speed Table (Abbott Ave)	\$ 2,000.00 / LS	\$ 4,000.00
3	EA	W17-1 w/ W16-9P	\$ 350.00 / EA	\$ 1,050.00
4	EA	W17-1 w/ W16-7P	\$ 350.00 / EA	\$ 1,400.00
110	LF	12" Solid White (T)	\$ 3.00 / LF	\$ 330.00
270	LF	6" Double Yellow (T)	\$ 1.40 / LF	\$ 378.00
582	LF	6" Solid White	\$ 0.60 / LF	\$ 349.20
18	EA	RPM's Amber/Amber	\$ 8.00 / EA	\$ 144.00
112	EA	RPM's Colorless/Red	\$ 8.00 / EA	\$ 896.00
1	LS	Remove Exist. Speed Bump	\$ 400.00 / LS	\$ 400.00
1	LS	MOT & Traffic Control	\$ 800.00 / LS	\$ 800.00
1	LS	Survey	\$ 362.80 / LS	\$ 362.80

TOTAL COST THIS PROPOSAL: \$ 19,000.00

PLANS: By: CGA, Inc.
 Sheet SP-1 & SP-2, dated 10-10-08, no revisions.

NOTES:

- 1 Permit costs, Bonds, Densities, Proctors, Impact fees, Pad Certification, not included in bid.
- 2 Removal or replacement of unsuitable materials or special bedding due to unsuitables not included.
- 3 Proposal predicated strictly on work listed above. Any additional work what so ever, change order to be required.
- 4 Adjust, remove, relocate, or hold existing utilities other than specifically noted, not included.
- 5 Speed tables to be provided by other & installed by Downrite forces.
- 6 Due to instability in mining industry, Downrite cannot guarantee quantities and/or unit prices for import fill materials, any increases in fill material costs will be paid by owner, proper documentation shall be provided to expedite approval.
- 7 Night time or premium time work, police, highway patrol, traffic police, not included.
- 8 D.O.T. Permit, if required, not included.
- 9 If this project is awarded to DRE, CADD files must be provided prior to commencement of work.

ACCEPT: The terms of this proposal (and the accompanying Notes, which form a part hereof) are accepted, and shall apply to the work unless specifically superseded by contrary terms contained in a signed, written agreement. Unless otherwise provided in a signed writing, payment shall be made by way of monthly draws submitted by the 25th of the month and paid by the 10th of the following month. Unit prices and extensions, where stated, are estimates only, made for the sake of convenience, and, unless otherwise agreed, do not constitute limits on the amounts due to Downrite when a stated estimate is exceeded in fact. The figures employed in this Proposal shall not be deemed a basis for severability or reduction for unit usage, inasmuch as Downrite makes this Proposal on an undivided, nonseverable, lump-sum basis. In the event of any default, including any failure to make any payment when due, or any other breach of any other term or condition, Downrite shall be entitled to all costs of collection, including out-of-pocket expenses, attorney's fees, and the like. This Proposal may be deemed withdrawn if not accepted in writing within 30 days of the date of this proposal.

Downrite Engineering Corporation

Authorized Signature

Date

By: _____